

THE DEATH PENALTY IN BELARUS

The Death Penalty in Belarus



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The documentary book, “The Death Penalty in Belarus”, was prepared in the framework of the campaign, “Human Rights Defenders against the Death Penalty in Belarus”. The book contains information on the death penalty in Belarus from 1998 to 2016, as it was in 1998 when the mother of Ivan Famin, a man who was executed for someone else’s crimes, appealed to the Human Rights Center “Viasna”. Among the exclusive materials presented in this publication there is the historical review, “A History of The Death Penalty in Belarus”, prepared by Dzianis Martsinovich, and a large interview with a former head of remand prison No. 1 in Minsk, Aleh Alkayeu, under whose leadership about 150 executions were performed. This book is designed not only for human rights activists, but also for students and teachers of jurisprudence, and wide public.

Life and Death

The Death penalty. These words evoke different feelings and ideas in different people, including fair punishment, cruelty and callousness of the state, the cold steel of the headsman's axe, civilized barbarism, pistol shots, horror and despair, revolutionary expediency, the guillotine with a basket where the severed heads roll, and many other things. Man has invented thousands of ways to kill his fellows, and his bizarre fantasy with the methods of execution is boundless. People even seem to show more humanness and rationalism in killing animals. After all, animals often kill one another.

A well-known Belarusian artist Lionik Tarasevich grows hundreds of thoroughbred hens and roosters on his farm in the village of Validy in the Białystok district. There are many gamecocks among them. "As soon as they smell blood", he said, "they peck and maul the one who is wounded. Cocks are more merciless than people". Is the death penalty a rudiment of man's animal nature then? Did he also mercilessly kill and maul those who were weaker than him before he started living in caves and wearing animal skins? Recalling the bloody 20th century, in which we were born, I can't but start questioning the degree of civilization in modern people and the length of the distance between us and our cave ancestors.

The death penalty is a sign of our epoch! It is like a rust that is ingrained so deeply that it cannot be taken out by any acid, or covered by any elite paint. In July 2011 in Norway, Anders Breivik killed 77 people. He threw a challenge to his own people that had abolished the death penalty back in 1902. He, a terrible provocateur, tried to awaken the thirst for revenge in the Norwegians. By his deed he cried, "I kill you and your children, kill me by a court verdict then! Let us see what your human principles go for!" Nevertheless, the Norwegians refused to change their laws for the sake of Breivik. As a result, he was sentenced to 21 years in prison. He is serving his sentence in a three-room apartment, is allowed to receive visitors every week and can use a computer. "What a bitch!", revolted a Belarusian prisoner, sentenced to 16 years for a murder. "I'd shoot him myself". "Don't you think you could be shot for your deeds, too?", I asked, unable to stand it. "To hell with it!" he answered. "We'd see what you'd say being on the death row," I thought.

Most Belarusians believe that the death penalty should be kept, with only a small minority that is against it. As a rule, Belarusians don't like to give

clear answers to tough questions. It's hard for us to choose between "yes" and "no", and when there is a possibility to hide behind "maybe, yes", "more no than yes", and "I haven't decided so far", we are happy to do it. But sometimes life doesn't give us such a choice and it requires an unambiguous answer. Life and death don't have a grey area or a smooth transition between them. Everyone chooses what colour life and death are on their own, but there is always a great contrast between the two.

The death penalty has divided our society. Well, it isn't the only stumbling block, but Belarusians aren't an exception. Let us remember Moses' Old Testament commandment, "an eye for an eye, a tooth for a tooth". Yet in the New Testament, is the completely different attitude of Jesus, "If someone strikes you on the right cheek, turn to him the other also." Perhaps these incompatible biblical commandments are the basis of the human reaction to the death penalty, as it is like revenge. Can love and grace let the man do without it?

In 2011, I had to spend four months in a remand prison on Valadarski Street ("Valadarka"). The old prison cellblock, the so-called Piščalaŭski castle, was falling apart. There were cracks across the walls, and one of the towers had collapsed. In order to keep the building up, it was propped up with iron bars. Prisoners had been relocated elsewhere years before I got there. We were kept in a building that seemed to have been built in 1970s, but were taken for walks by the old tracks.

"Out for a walk!," the guard would cry. We would walk out in a single file, keeping our arms behind our backs for decency's sake, and descend from the second floor to the basement. Another guard was standing on the staircase, and he would knock on the edges of the iron banisters with a big key. There was a sign for the guards on the first floor to wait and to not lead the prisoners out, as well as for another guard who would receive us in the basement. This basement was a real vault of the old prison cellblock with a semi-circular ceiling and cells on both sides, and was somewhat wet and gloomy.

The "apartments" in the vaults were no longer inhabited – prison property was kept there. However, on the left, behind an unremarkable door, as Valodzia (who has already spent more than three years in the remand prison due to courts and repeated trials) pointed with a nod of his head, there was a special corridor. Death row prisoners are kept there. We reached the end of the vault, turned to the right and walking through the surviving tower with a spiral staircase

overhead, got to congested walking yards. We would go back the same way, but the death row prisoners would remain behind, immured in the ground.

On November 30, 2011, when I was still in Valadarka, two prisoners who were kept in the special corridor, Uladzislau Kavaliou and Dzmitry Kanavalau, were sentenced to death. Three days later I was taken to the remand prison in Žodzina. We were lead out to the transfer through the prison gate (at which Ivan Pulichaŭ, a terrorist, had been hanged a hundred years ago), while Kavaliou and Kanavalau were left in the prison, waiting to be shot.

In March 2012, Kavaliou and Kanavalau were executed by shooting. At that time, I was already in the Babrujsk colony. I was surprised by the unanimity of prisoners who, when it came to this sentence, were saying in one voice, "No, it's not they who are guilty." Everyone was convinced that these two were shot so quickly in order to "cover the tracks", making it so that it would be impossible to find the truth. Nobody believed the information that was given by the investigative committee and the prosecutor's office. "Who organized the explosion in the subway then?" I asked. "They are", answered the inmates, pointing their fingers upwards.

In 2013, a sheet of paper with an announcement that a prisoner had been sentenced to death for killing an inmate in Mahilioŭ prison, was hung at the brigade's news stand, next to the newspaper "Šviejnik" ("Seamster"). As it was written in the newspapers, it was Ryhor Yuzepchuk. The announcement was, most probably posted, for "educational purposes". However, what could this sheet do? About fifty people in the brigade were imprisoned for murders, and none of them, even if they wanted, could change everything in their lives and start from an empty page. When I wrote my colleagues about this announcement, it was quickly removed, and a prison officer warned me that my letters would not be let out, especially if I wrote even a word about the prison.

It is impossible for those who have never been in prison to understand what it is. It is even more impossible to understand how it is – to be sentenced to death and be waiting for the execution. A state is enclosed with boundaries, a penal colony – with a fence, a penal cell or a prison – with four walls, whereas the cell of a death row prisoner is the very centre of hopelessness, the very essence of life and death, like the needle, where the soul of the fire-drake hides. If we break the needle – will the fire-drake die?

Ales Bialiatski

Six +1 Arguments against the Death Penalty

The topic of the death penalty has been discussed since ancient times. Therefore all of the “pros” and “cons”, have long been known. Yet, every time the topic of the death penalty is raised (and the topic is far from being a pleasant one, that’s why it isn’t often raised in everyday life), a heated debate starts with everyone bringing the old as time, “for” and “against” arguments. During our work in the campaign, “Human Rights Defenders against the Death Penalty in Belarus”, we have formulated six main arguments against the death penalty.

However, there is also the **seventh** argument, which is political, as it is impossible to accede to the civilized world and become a European country, and retain the death penalty.

Primarily however, the primary six arguments are as follows:

Argument 1. The Miscarriage of Justice, and the Irreversibility of the Death Penalty

It is impossible to remedy the miscarriage of justice and return an executed man to life after the execution.

Mechyslau Hryb, an honoured lawyer of Belarus, spoke about the irreversibility of the death penalty and the miscarriage of justice that cannot be corrected after the execution:

– *I worked in law enforcement bodies for 36 years. One of my posts was the Head of the Police Department of the Viciebsk Regional Executive Committee. I had to work there in a most difficult time when the maniac Mikhasevich, committed his crimes on the territory of the Viciebsk region. While investigating this case we found out that 13 people had been unlawfully sentenced to long prison terms for Mikhasevich’s crimes over 15 years, and one of them, Tsiarenia, had been shot on verdict of the Viciebsk Regional Court. He was executed for nothing. Before that, I hadn’t reflected on the death penalty that was used on the territory of the Soviet Union, but after seeing these judicial errors with my own eyes I came to the conclusion that it was all wrong and no one should be deprived of life.*

There was no other evidence against Tsiarenia, other than the testimonies that were knocked out of him during the investigation.

Argument 2. Executioners, Professional Headsmen Who Kill in the Name of the State

Aleh Alkayeu was the head of Minsk remand prison No. 1 in 1996-2001. 134 sentences were executed under his leadership. Aleh Alkayeu says that the execution of a death sentence is a murder, even if it is "killing by law":

– It is difficult to kill a person who did you no wrong, to kill him without anger and intense emotions. This is murder, and no murder ever goes unpunished. This is different from being at war, when you shoot from a large distance, and you don't know whether you hit your target and where your enemies shoot back. This is totally different. That's why all information about the firing squad is classified and neither close relatives nor even colleagues know what these people do. These rules are strictly observed primarily by the members of the group. A murder always remains a murder, even if it is done under the law.

Argument 3. Religious – "Thou shalt not kill!"

Life is given to man by God, and no one but God can take it.

In 2013, Pope Francis stated in his telegram to the V World Congress against the Death Penalty:

"Capital sentences should be commuted to a lesser punishment that allows for time and incentives for the reform of the offender."

Argument 4. The Killing of Political Opponents, and Mass Repression

The death penalty that is kept in Belarus can be used not only against criminals, but also against political opponents. Crimes of Communism still have not been condemned in Belarus, and the present authorities in many respects are heirs of those who carried out mass executions of dissidents.

The death penalty becomes a common phenomenon during mass repression.

Iryna Ashker told how her father and grandmother were arrested on a Saturday evening in 1937, after the family washed in the sauna, and how

her mother saw the father being lead out of the prison gate in Orša for shooting: “The father just waved his hand: “Go home, don’t wait for me!”.

Argument 5. Torture of the Relatives of the Executed Person by the Non-Issuance of the Body and Non-Reporting about the Place and Time of Execution

Human rights activist Hary Pahaniaila says:

– In Belarus, there still operates a law dating back to the Soviet period, according to which, in case the exceptional measure of punishment in the form of the execution is used, the body of the executed person is not issued to relatives and the place of burial is not reported. Thus, a secret is made of the time of execution and the place of burial. The latter is explained by the intention to prevent the possible desecration of the grave of the criminal who committed serious crimes. The UN Human Rights Committee has repeatedly stated that the procedure of the death penalty in Belarus contains signs of torture and inhuman treatment, both of the executed and their relatives. The date of the execution is not reported while a death row prisoner is kept in jail for several months before being executed, which causes additional suffering for him and his relatives.

Argument 6. Ineffectiveness in Crime Prevention

When he was Interior Minister, General Yury Zakharanka studied the procedure of the death penalty and intended to introduce certain changes. He stated it for the first time in 1998, in an interview to Ales Daschynski, a correspondent of the newspaper “Naviny” (“Svaboda”, February 17, 1998). In that interview the former Interior Minister strongly opposed the death penalty.

General Yury Zakharanka stated the necessity to abolish the death penalty:

– I believe that we need to eliminate the institution of deprivation of human life. The death penalty has not been able to stop crime. The forensic psychiatrists who have studied this issue concluded that none of the convicted had been thinking about the possibility of being punished by death before committing their crimes. The number of serious crimes will not increase after the abolition of the death penalty. It would seem cheaper to shoot a man and bury him, but in such a way society buries itself. We need to make a turn to humanism.

“Svaboda”, Feb. 17, 1998.

Part 1.
Historical Overview

The History of the Death Penalty in Belarus

Ancient Ruś

All researchers who study the history and evolution of the death penalty are unanimous in finding its source. They see it in the blood feud – the ancient principle that arose during the existence of the tribal community (a community of people united by the existence of a common ancestor). Since the state did not exist and there were no means of legal regulation at that time, blood feud allowed the protection of the honour of one's kin and a timely stop to the feud between tribes or clans. Enemies were getting even by implementing the principle of, "an eye for an eye, a tooth for a tooth", in practice.

Accordingly, the death penalty should be understood as deprivation of life, carried out by the verdict of the court, government, or military officials as a means of punishment. Therefore, the death penalty could be first used on the territory of present-day Belarus, only when there appeared a State or a pre-state formation of that State. According to S.V. Zhiltsov, we can talk about the rise of the death penalty among the eastern Slavs in the 5th century AD[1].

However, the traditions of blood feud remained extremely strong. For instance, they are found in the treaty between Ruś and Byzantium as it concluded in 911 AD: "If a Ruthenian kills a Christian or a Christian kills a Ruthenian, let the killer be detained and killed by the close relatives of the killed man". As commented by Professor Zagoskin, "the power of the Ruthenian legal consciousness in this case is so rough that the Ruthenians won't renounce it even for the Greeks; if we open the Byzantine criminal laws, we will find that they threaten murderer with the death penalty. It is

1 Zhiltsov, S.V. Death penalty in the history of the domestic law: abstract of the thesis of the doctor of historical sciences. 12.00.01. Saratov, 2002. p. 22.

clear that the treaties on murder are rooted in the legal consciousness of our ancestors”[2].

These treaties directly concerned the territory of Belarus. First of all, Polack princes also took part in the campaigns of Prince Oleg at Constantinople. No wonder the “Tale of Bygone Years” mentions that in 907 Constantinople had to pay tribute to a number of cities, including Polack, which was ruled by princes who were subordinate to Oleg[3]. Of course, this subordination and, consequently, the political unity of Ruś, could be temporary. However, Ruś still represented a common space in matters of language, mentality and customs.

However, this document provided the right to choose. The relatives of the dead man had an alternative; they could either use the right of blood vengeance, or require a blood write from the killer. In particular, if the killer escaped, but had some property left after him, a part of it was passed to the relatives of the killed, whereas the killer’s wife kept her part. If the killer had no property and was eventually caught, he was then killed[4].

Thus, the first step was made to limit the use of blood vengeance. Later on, the same article was present in the treaty between Ruś and Byzantium, dated 944[5]. However, the following year there was a classical case of blood feud: Kyiv Prince Igor was killed by the Drevlians, and princess Olga, his widow, took revenge for the murder. The ambassadors of the Drevlians were buried alive, their nobles were burned in a sauna. Later the princess also burned down Iskorosten, the capital of the Drevlians[6]. It’s also worth noting, that the city of Ovruch, another centre of the tribe, is now the capital of an administrative district that borders Belarus. The territory of the Drevlians

2 An essay on the history of the death penalty in Russia: The speech read at the annual act of the Imperial University of Kazan by prof. N.P. Zagoskin // Proceedings and Scientific Notes of the Kazan University. 1892. № 1 [electronic resource]. Access regime: www.allpravo.ru/library/doc101p0/instrum2363/item2365.html.

3 Tale of Bygone Years / transl. into Russian by D.S. Likhachev [electronic resource]. Access regime: http://old-russian.chat.ru/01povest.htm.

4 Zhiltsov S.V. Death Penalty in the History of Russia. M., 2002, p. 36.

5 Tale of Bygone Years / transl. into Russian by D.S. Likhachev [electronic resource]. Access regime: http://old-russian.chat.ru/01povest.htm.

6 Ibid.

reached the river of Prypiać (to the north of which the Dregovichs lived). That's why the considered events are somehow related to the territory of the contemporary Belarus. Another example of blood feud is the story of the Polack princess Rogneda. She refused to marry the Prince of Novgorod, Vladimir, who courted her and added, "I do not want to take shoes off a slave's son" (the father of the suitor was the prince of Kyiv, and his mother was a slave). In response, in 980 Vladimir captured Polack, killed Rogneda's parents and brothers, and forcibly married her. In 987 Rogneda unsuccessfully tried to take revenge on her husband, who by then had become the Prince of Kyiv[7].

A further departure from blood feud took place thanks to the advance of Christianity (the canonical date is 988, when such a choice was made by Prince Vladimir). The Church condemned the use of blood feud as contrary to the Christian consciousness, but at the same time advocated the death penalty. The reason was simple. The death penalty quickly became the largest feudal landowner[8]. since this religion had come to Ruś from the Byzantine Empire, Byzantine law was spread as well, In particular there was the Kormchaia Book, a guide on the management of the church and the church court, as well as "Prochiron", a guide for judges, which included the rules of law. According to them, in 988 the death penalty was introduced for robbery[9]. But it was impossible to instantly change people's minds.

Thus, in the 11th century, "Russkaya Pravda" started to be used on the territory of Ruś. Traditionally, it is associated with the name of Prince Yaroslav the Wise (1016-1054), a son of Rogneda. But it actually consists of several documents that were accepted in the times of Yaroslav and later. This is a short edition of "Russkaya Pravda" that consists of 43 articles. Later, in the 12th century, there was adopted an extended "Russkaya Pravda", comprising 121 articles.

"Russkaya Pravda" validated blood feud. Article 1 of the short edition reads, "If a man kills a man, a brother can avenge for his brother, a son – for his

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7 Tale of Bygone Years / transl. into Russian by D.S. Likhachev [electronic resource]. Access regime: http://old-russian.chat.ru/02povest.htm.

8 Zhiltsov, S.V. Death Penalty in the History of Russia, p. 53

9 Zhiltsov, S.V. Death penalty in the history of the domestic law: abstract of the thesis of the doctor of historical sciences. 12.00.01. Tolyatti, 2002. p. 22.

father, or the father for the son, or to the son of a brother or a sister; if someone will not revenge, then the prince must be paid 40 grivnas for the killed...”. What was punished with death? A slave could be killed for hitting a free man. A thief who was caught in the act could be killed immediately. However, if he was tied before the killing, the killer was to pay for it[10].

Changes can be observed in the extended version of “Russkaya Pravda”. First of all, the blood feud was abolished altogether by the three sons of Yaroslav. Instead of death, there was established a ransom, a normal one (40 grivnas) and a double (80 grivnas), that was paid for the murder of the representatives of princely administration[11]. In the extended version of “Russkaya Pravda”, the heaviest penalty was the “pillage”. At first it was understood as the expulsion of the offender and the confiscation of his property, while later the offender was turned into a slave and his property was pillaged[12]. This penalty was provided for a premeditated unmotivated murder, stealing horses and arson[13]. However, as the researchers note, anything could be done to a man who has lost his civil rights. For instance, such a sentence, issued in 1209 in Novgorod, resulted in the murder of the convicts. According to some extant testimonies, close relatives were also held liable for a crime even if they didn’t take part in it (which resulted in the mutual responsibility that existed in the community)[14].

Thus, the death penalty is absent among the penalties that are listed in the extended version of “Russkaya Pravda”. However, it doesn’t mean that the death penalty was not used. S.V. Zhiltsov believes that the death penalty was used by the princes under “Prochiron”[15]. Besides, customs continued playing an important role, too. The extended edition of “Russkaya Pravda” retained the earlier provision of the short edition; a thief who was caught in act in a house or during any robbery, could be killed like a dog. However, it

10 “Russkaya Pravda” (short edition). [Electronic resource]. Access regime: http://lib.pushkinskijdom.ru/Default.aspx?tabid=4946.

11 “Russkaya Pravda” (extended edition). [Electronic resource]. Access regime: http://lib.pushkinskijdom.ru/Default.aspx?tabid=4947.

12 Zhiltsov, S.V. The death penalty in the history of Russia, p. 49.

13 “Russkaya Pravda” (extended edition). [Electronic resource]. Access regime: http://lib.pushkinskijdom.ru/Default.aspx?tabid=4947.

14 Zhiltsov, S.V. Death Penalty in the History of Russia, p. 49.

15 Ibid., p. 52.

was prohibited to kill a slave without any guilt. If the latter hit a free man, he could be sentenced to a fine or to a public spanking[16].

For a long time people continued keeping to pagan customs and believed in magic. Sacrifices to Nix were practised in the Arkhalgensk region even five centuries later, in the 1820s. In the 1840s there was a case registered when an elderly woman was pushed down into a prepared grave and buried alive for the sake of stopping cholera[17]. There is no doubt that pagan traditions could survive on the territory of Belarus, where paganism had deep roots, partly due to the late adoption of Christianity. Let's recall, for instance, the book "Belarus in Fantastic Stories" by Jan Barščeŭski, where the pagan way of thinking is revealed to the full extent. But gradually these traditions began to retreat into the past.

Thus, in the days of ancient Ruś there was a struggle between the traditions of blood feud and the death penalty itself. With the adoption of Christianity and the strengthening of the state, the latter tradition became dominant.

The Grand Duchy of Lithuania and Rzeczpospolita

The next stage in the history of Belarus was as the Great Duchy of Lithuania, the Belarusian-Lithuanian state, which arose in the middle of the 13th century. The western lands of the GDL became one of the centres of the state-building, while the eastern lands gradually acceded to it in a peaceful manner. For instance, the Great Duke Gedimin (1316-1341) married his son Algerd to the daughter of the Viciebsk prince. When the latter died, the principality voluntarily joined the GDL. Such accession guaranteed the preservation of traditional laws, as reflected in the phrase "old rules shall not be repealed, new ones shall not be introduced". That's why the inhabitants of the territory of the present Belarus continued to be guided by the rules of law that were considered in the previous section.

The first codified compendium of rules of the criminal law and procedure in the Grand Duchy became the "Casimir's Code of Law", approved by the Sejm in 1468, during the reign of Grand Duke Casimir IV (1440-1492). However, we should note that from now on our study will concern only

16 "Russkaya Pravda" (extended edition). [Electronic resource]. Access regime: http://lib.pushkinskijdom.ru/Default.aspx?tabid=4947.

17 Zhiltsov, S.V. Death Penalty in the History of Russia, p. 32.

peaceful life, since martial law became the main one during hostilities. The Hetman (Head Chief of the armed forces of the State) had full authority over the army (including the right to trial and the death penalty)[18].

"Casimir's Code of Law" was based on the local traditional law and judicial and administrative practice. Compared with the previous ones, the document contained a number of fundamentally new elements, entering individual liability (here the European approach manifested, whereas the principle of responsibility of the entire community corresponded to Eastern traditions). If the wife and children of a criminal didn't know about the crime and didn't use the stolen items, they were deemed innocent. This norm was aimed at saving the economy, which corresponded to the interests of large landowners. However, when the offender had nothing to pay the fine with or compensate for the losses, his wife and children who were over 7 years old could become slaves to the victim. This is how the age where children were held liable for their parent's crimes, was first defined in Belarus. The Code also registered a strengthening of oppression and deprivation of dependent peasants of the right of free withdrawal from the feudal lord. The persons who helped peasants to flee, were to be hanged on the gallows.

An example of individual responsibility manifested even in a case of state conspiracy. In 1481, Sluck prince Mikhail Olelkovich, his cousin Fiodor Belski, Ivan Golshanski-Dubrovitski and Ivan Glinski organized a conspiracy against Casimir IV. They invited the latter to Kobryn, to the wedding of Belski and Anna Kobrynskaya. There Casimir was to have been killed and Mikhail Olelkovich was to have become the head of the Duchy. However, the conspiracy was disclosed. Olelkovich and Golshanskiy-Dubrovitski were executed by beheading in Vilnius. Glinski and Belski managed to flee to Moscow. Casimir, and later his son, Alexander, refused to give Anna Belskaya to her husband in Moscow. However, she wasn't convicted and kept all her possessions.

According to Yazep Yukho, the Code also presents a new view on the purpose of punishment. In the traditional law, the main objectives of the penalty were the compensation of the damage to the victim and the suppression of criminal activities. But according to the Code, the main purpose of the penalty is deterrence (which does not exclude material compensation). Therefore, the

18 Sahanovich., H. Hetman // The Great Duchy of Lithuania: encyclopaedia in 2 volumes. Minsk, BelEn, Vol. 1, p. 531.

death penalty was envisaged even for such crimes as stealing a cow or a horse, as well as for a theft in the amount of more than 30 groschens. In the ancient law, an offender who was sentenced to death could buy himself off or could become a slave to the victim or his relatives. Now it was prohibited[19]. However, Casimir's Code still wasn't used as the state code at that time. Codification and systematization of the law ended with the publication of three Statutes of the GDL in 1529, 1566 and 1588.

The first Statute proclaimed the principle of publicity of justice, the formal equality of the sides and the right of the accused to be defended by a lawyer. Of course, in the 16th century these provisions largely remained on paper, as other articles demonstrate selective approaches for different social strata (e.g. for feudal lords and peasantry owned by them). However, the very proclamation of this idea was a step forward. The Statute also provided that no one could be held liable for someone else's guilt, the penalty was to be administered only to a person whose guilt was proved by court[20].

The sevenths chapter of the Statute was dedicated to the criminal law and was titled "On the clerk violence, beatings and the murder of nobles"[21]. The death penalty is used there in about twenty cases as a response to the most serious crimes (deliberate attack on someone's house with the aim of murder, the murder of family members, and so on). It is interesting that in those days there was no such notion as murder by negligence. On the contrary, if someone attacked a house and its owner killed the attackers, he was freed from liability.

For the first time, a separate article in the Statute was dedicated all towomen, regardless of their class. More specifically, the article concerned violence against them. Under the law, if a woman called for help and people came to her scream, she was to show signs of violence. In this case, the offender was punished. The woman was to present to the court two or three witnesses and take an oath, after which the rapist was sentenced to death. He could only be saved by the woman's desire

19 Yukho, Ya. The Code of Law of 1468 // Encyclopedia of the History of Belarus in 6 volumes: Minsk, BelEn, Vol. 6, book 1. p. 441.

20 Yukho Ya. The Statute of the Great Duchy of Lithuania of 1529 / Encyclopedia of History of Belarus in 6 volumes: Minsk, BelEn, Vol. 6, book 1. p. 414.

21 The Statute of the Great Duchy of Lithuania of 1529. Chapter7, "On the clerk violence, beatings and the murder of nobles". [Electronic resource]. Access regime: http://www.vostlit.info/Texts/Dokumenty/Litva/XVI/1520-1540/Statut1529/text7.phtml?id=2276.

to marry him. Most importantly, the offender wasn't freed from liability even if the woman was unable to call for help[22].

The next step in the codification and systematization of law was the Statute of 1566. If the previous document consisted of 13 chapters and 244 articles, this one included 14 chapters and 367 articles. Criminal law was considered in four chapters (11 through 14) instead of one. It was stressed that criminal penalties should be carried out only by court order. The person who accused someone of a crime and had not proven the guilt of the accused, was to be punished in the same way as the potential criminal. The age of legal liability was increased to 14 years (whereas in the following Statute it became 16 years). The presumption of innocence was proclaimed[23].

Three years after the adoption of the second Statute, in 1569, the GDL and Poland became parts of the Polish-Lithuanian Commonwealth. However, the duchy retained its legislation in this federal state. Moreover, the third Statute, issued in 1588, doesn't contain any references to the alliance with Poland. The Statute of 1588 has 14 chapters and 488 articles. The norms of criminal and criminal procedural law are contained in chapters 11-12 and 14, and partially in chapter 13. The Statute has some noteworthy peculiarities. Compared to the first one, the number of crimes punished with death increased almost fivefold and is about one hundred. Among them there are crimes against religion and the church, the order of administration and justice, offences against person as well as a number of government, military and property crimes[24]. Concerning a secret murder ("not because of an argument, but underhandedly, treacherously and covertly") the Charter provides such penalties as quartering and impalement[25].

An example of a crime against the church was the execution of Kazimierz Łyszczyński in 1689. Kazimierz Łyszczyński wrote a treatise,"On the non-

22 Ibid.

23 Yukho Ya. The Statute of the Great Duchy of Lithuania of 1566 / Encyclopedia of the History of Belarus in 6 volumes: Minsk, BelEn, Vol. 6, book 1. p. 415-416. The second (Volhynian) Statute of the Great Duchy of Lithuania of 1566 [Electronic resource]. Access regime: http://litopys.org.ua/statut2/st1566.htm.

24 Arlouskaya A.I. Death Penalty in the History of Belarus // Actual issues of improving legal education in secondary vocational schools. Minsk, 2011[Electronic resource]. Access regime: http://www.law.bsu.by/pub/31/Orlovskaya_1.pdf.

25 The Statute of the Great Duchy of Lithuania. Texts. Reference book. Comments. Minsk: BelSE, 1989, p. 430.

existence of God". He was arrested after a denunciation. It is interesting to know that the nobles strongly protested against the consideration of his case by the court of the bishop (as Kazimierz Łyszczyński was a free man), that's why it was considered by the Sejm. At its meeting, prosecutor Symon Kurovich stated, "I accuse him of daring to show God as a non-existent product of fantasy in 265 pages of his treatise and thereby to overthrow Him from an unattainable height, attributing the management of land and sky to natural forces". This was enough to sentence Kazimierz Łyszczyński to be burned. Later, the king replaced the sentence with beheading[26].

The third Statute of the GDL included a number of articles from the previous editions (for instance, the already considered attacks on the house or violence against women), as well as some new provisions. One of the most important, was that a nobleman could be held liable for a murder of an ordinary person (through the procedure of proving this crime was quite complicated; the guilty man was sentenced to death if he was caught in act in the presence of six other noblemen)[27]. The number of articles concerning women increased as well. For instance, a forced marriage or kidnapping a woman without her agreement were punishable with death[28]. The same applied to a woman who got pregnant from a lover and had an abortion[29].

Starting from "Casimir's Code of Law", the legislation of the GDL provided for the individual responsibility for crimes. However, there were some exceptions concerning state and religious affairs. For instance, in 1623 in Viciebsk Archbishop Josaphat Kuntsevych was killed. 100 people were executed, the town hall was destroyed and all self-government was eliminated. In 1744, after the suppression of the Kryčaŭ uprising, 16 people were executed (some of them were impaled, others were beheaded or hanged on the gallows).

The third Statute of the GDL continued to operate until the end of the Commonwealth. May 3, 1791 there was adopted a Constitution that reformed the political system of the country. However, its adoption

26 Paulouski B. Victim of Tongue and Pen. Vecherniy Brest [Electronic resource]. Access regime: http://www.vb.by/society/history/16916.html.

27 The Statute of the Great Duchy of Lithuania. Texts. Reference book. Comments. Minsk: BelSE, 1989, p. 441.

28 Ibid., p. 429.

29 Ibid., p. 439.

didn't bring (or more precisely, had no time to bring) legislative changes (including those regarding the death penalty). Soon this document was cancelled and Belarus was incorporated by the Russian Empire as a result of the three divisions of the Commonwealth in 1772, 1793 and 1795.

It is clear that there were ruling classes in the GDL and the Commonwealth, and therefore there was no social equality. But the legislation of these countries was significantly ahead of its time. The GDL statutes declared the equality of all people before the law, which over time became the universal legal norm.

The Russian Empire

For a certain period of time after the accession of Belarus to Russia, the legislative situation was ambivalent. On one hand, the GDL Statute of 1588 wasn't cancelled and its provisions continued to operate in the Viciebsk and Mahilioŭ provinces until 1831 and in the Vilna, Hrodna and Minsk provinces – until 1840. On the other hand, in some cases Russian legislation imperiously entered into local life.

The principles of Russian law were shaped in the 17th century. The military-police character of the Russian Empire formed during the reign of Peter I (1689-1725). The king tried to subordinate the civil sphere to the principles that were inherent in the military. One manifestation of this policy was the introduction of the Military Charter, in which the death penalty was absolutized. 123 out of 209 articles whose action spread on all courts in Russia, envisaged the death penalty[30].

Peter's successors received at their disposal a customised system of state and repressive control. As written by the researcher S.V. Zhiltsov, "The state of slavery of the majority of the population of Russia, was supported by a well-functioning system of repressive bodies and was based on an agreement between the landlords and serfs, and gave Catherine the possibility to keep the public peace without using the death penalty". He is speaking of Catherine II (1762-1796). However, limitation of the death penalty took place even earlier, under her aunt Elizabeth (1741-1761). After becoming the Empress, Elizabeth in fact announced a moratorium on the death penalty. The order of the Senate, dated 1744, concerns the

[30] The Military Charter [Electronic resource]. Access regime: http://www.hist.msu.ru/ER/Etext/Ystav1716.htm.

replacement of the death penalty with other kinds of penalty. Meanwhile, all cases of convicts were to be passed personally to the Empress.

The system that was ventured by Elizabeth, proved to be extremely resilient. For example, in 1813, representatives of the Russian nobility developed a draft of the Criminal provisions, which envisaged the death penalty for a number of crimes against the state, order of administration, property and person. However, Emperor Alexander I (1801-1825) did not sign the document. The main reason seems to be the program with which he came to power in a coup. In the manifesto, which was published in 1801, the Emperor promised to govern the country, "according to the law and the heart of our...most august grandmother, Empress Catherine the Great"[31]. Catherine opposed the death penalty as well, following the example of Elizabeth. An eloquent incident occurred in the 19th century. When in 1827 two Jews secretly crossed the border river, Prut. Nicholas I (1825-1855) refused to sign their death sentence, saying: "Thank God, we don't have the death penalty and I am not the one to introduce it"[32].

Wasn't the death penalty used in the Russian Empire back in 18-19th centuries? Of course, it was. First of all, the death penalty was used against political parties who either claimed the throne or planned to change the government (namely about 20 thousand participants of the Pugachev uprising, Lieutenant Mirovich, and five of the Decembrists). It is appropriate to mention the natives of Belarus, too. Gesya Gelfman, a Jewess born in Mazyr, was a member of the organization Narodnaya Volya, and was implicated in the assassination of Tsar Alexander II (1855-1881), conducted by Ignacy Hryniewiecki, another native of Belarus. G. Gelfman was sentenced to be hanged (the punishment that usually applied to civilians, whereas the military were shot), but at the time of sentencing she announced her pregnancy. In such a situation, the law prohibited this kind of penalty for the mother because of the innocence of the child. A campaign for the abolition of the death penalty for her started in Western Europe. A French writer Victor Hugo published an open letter in support of Gelfman. Since the future Russian-French alliance was shaping at the time, the death penalty was commuted to life imprisonment with hard

31 The Manifest "On the death of Emperor Paul I, and the accession to the throne of Emperor Alexander I" [Electronic resource]. Access regime: http://doc.histrf.ru/19/manifest-o-vosshestvii-na-prestol-aleksandra-i-ot-12-marta-1801-g/.

32 Evreinov N. The History of Corporal Punishment in Russia. M., 1913 (1994), p. 114.

labour. However, Gelfman didn't receive any medical assistance during and after childbirth and soon died in prison of a purulent inflammation of the peritoneum, which developed as a result of the unhealed postpartum complications[33].

The second circumstance was in 1812, when the "Field Criminal Code" was adopted, under which the death penalty was imposed for serious crimes committed in wartime. It concerned only the military. However, since martial law was introduced in certain areas during uprisings, the "Field Criminal Code" also acted there. For instance, in Belarus it took place during the suppression of the uprisings of 1830-1831 and 1863-1864. According to the order of Nicholas I (March 22, 1831), the gentry who took part in the uprising with weapons were to be judged by a military court and the sentences were to be performed on the spot. According to the researcher P. Koshel, all in all about 1,500 people were executed (although the author does not mention the source of this information)[34]. Perhaps, this figure is slightly inflated, as 123 people were hanged or shot for taking part in the Kalinoŭski uprising[35]. The head of the uprising on the territory of Belarus was also executed on verdict of the field court-martial. Some memoirs of this event have come down to us. According to one of them, Kalinoŭski "went to the execution with a bold gait and came straight to the gallows. When the verdict, in which he was called a nobleman, was read, he said loudly, "There are no noblemen, we are all equal". His inner excitement manifested only in that he seemed to mechanically scan the crowd around him with his eyes. He could be looking for his colleagues to let them know that he would take their secrets to the grave."[36]

The third circumstance, was when the death penalty was actually retained in camouflaged form, as there was corporal punishment. Even the Criminal and Correctional Code of 1845, the first Criminal Code of the Russian Empire, didn't abolish whipping, but just established the upper limit of 100 lashes. Corporal punishment as a measure of criminal liability was abolished only in 1863 (except for the penalty to repeated offenders

33 Gelfman, Gesya // Bibliographical Guide. Minsk, BelSE, 1982, volume 5, p 144.

34 Koshel P. The History of Russian Terrorism. M., 1995, p. 82.

35 Sambuk S.M. The politics of the tzarist government in Belarus in the second half of the 19th century. Minsk, Nauka i Tekhnika, p.25-26

36 Kalinoŭski K. For Our Freedom. Works, Documents. Minsk: Bielaruski knihazbor, 1999, p. 209.

who had been sentenced to hard labour). But the main problem was the number of strokes. We have already cited the example of two Jews who had secretly crossed the border river Prut. For this deed, Nicholas I sentenced them to be put through a row of one thousand men 12 times[37]. It is quite clear that one couldn't withstand 12,000 strokes with sticks. These examples of the use of the death penalty were first registered in a single document only in the early 1830s. It came about with the Corpus Juris of the Russian Empire of 1832, which came into force in January 1835. According to it, the death penalty was applied to three categories of crimes: quarantine (committed during epidemics or related to violence against the quarantine officials), military, and political. These provisions were included in the two criminal codes in 1845 and 1903[38]. For instance, the latter document (regarded as political), was for especially dangerous crimes against the state. These included crimes against the life, liberty and sovereign rights of the Emperor, the Empress and other persons of the imperial house; a revolt against the supreme authority (this includes participation in anti-state campaigns); as well as high treason[39]. By the way, at the same time, in 1903, age limits were introduced (it was prohibited to punish with death criminals under the age of 21 years, and above 70 years).

We should note that there were no significant changes in the military-police nature of the Russian Empire, which was discussed in relation to the times of Peter I. At the end of the 19th century, there started an expansion of the revolutionary movement. The peak of this stage was the assassination of Emperor Alexander II. In response, on September 4, 1881, Alexander III, his successor, signed the "Regulation on Measures for the Protection of the State Order and Public Peace"[40]. In some areas this document was valid until the 1917 revolution. It gave the highest administrative authorities (the Governor-General, and where there was no such position – to the Minister of Internal Affairs), the right to transfer to the military courts the cases of persons who were to be considered by a civilian court.

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37 Evreinov N. The History of Corporal Punishment in Russia. M., 1913 (1994), p. 114.

38 There also existed the Criminal and Correctional Code, adopted in 1885, but it retained all provisions regarding the death penalty of the Code of 1845.

39 The Russian legislation of 10-20th centuries / under the general edition of O. I. Chistyakov. M., 1994, Volume 9, pages 300-303.

40 A Complete Collection of Laws of the Russian Empire. Third collection. Sent-Petersburg, 1885, volume 1, pages 261-266.

This trend manifested itself in the early 20th century. In 1905 a revolution started. In response, the government started using this emergency legislation. Martial law was introduced in a number of provinces. Thus, political crimes were automatically under the jurisdiction of military courts[41]. That's how Ivan Pulichaŭ, a socialist revolutionary, was executed. Together with Alexandra Izmailovich, he organized an attack on the Minsk governor Pavel Kurlov. Pulichaŭ threw a bomb that did not explode (police agents new about the plotting of the assassination and had pulled out the detonator), and Izmailovich fired at the police chief with a pistol. The Provisional Military Court sentenced both of them to death by hanging. However, Izmailovich's appeal was granted and she was sentenced to a sentence of indefinite hard labour, whereas Pulichaŭ was hanged on the gate of Piščalaŭski castle (now known as "Valadarka")[42].

What trends were inherent in the laws of the Russian Empire? As we can see, the military-police character of the state as well as the absolutism (limited only at the beginning of the 20th century), were reflected in the legislation. Here we should quote the thoughts of the researcher Yuri Dubovsky. They concern the military penal legislation of the Russian empire, but can be extended to all problems of the death penalty. As pointed out by Yu. Dubovsky, since the mid-1870s, there was observed an, "easing of punitive measures, which was associated with the desire to follow the example of the supreme power of the bourgeois European states who carried out democratic reforms". But in the 19-20th centuries the authorities started tightening criminal liability for state and military crimes. "The desire of the government to keep the people in obedience to the empire led to an unprecedented application of military criminal law to the civilian population"[43]. This further contributed to the radicalisation of the society and encouraged the population to revolution – a radical solution to all problems.

41 Zhiltsov, S.V. Death Penalty in the History of Russia, p. 204.

42 Buhayenka V. Ivan Pulichaŭ – who is he? A street in Minsk is named after one of the first terrorists in Belarus. // Vecherniy Minsk, 1997, February 10.

43 Dubovsky, Yu.M. Legislation of the Russian Empire on the criminal liability of the military in the post-reform period (end of the 19th – beginning of the 20th century): its historical and legal aspect: abstract of the thesis of the candidate of legal sciences. Saint-Petersburg, 2011 [Electronic resource]. Access regime: http://www.dissercat.com/content/zakonodatelstvo-rossiiskoi-imperii-ob-ugolovnoi-otvetstvennosti-voennosluzhashchikh-v-porefo#ixzz3WcIodVUP.

The USSR

In 1914, the First World War started, and the following year the western part of Belarus was occupied by the Germans. Over the next six years, the imperial power in Russia was replaced by the Provisional Government, which then gave way to the Bolsheviks, who were again replaced by Germans, then there again came Bolsheviks, Poles and Bolsheviks again. Soviet rule was finally established on July 31, 1920 (the second proclamation of the Belarusian Soviet Socialist Republic). Tough martial law was operated on the whole territory of the contemporary republic all that time.

An exception was during only one relatively short period. On March 2, 1917 the Provisional Government abolished the death penalty and announced an amnesty, according to which 15,000 people were released in criminal cases alone[44]. However, the revolutionary freedom quickly brought total chaos. In July 1917, the Provisional Government reinstated the death penalty on the military front[45]. To win the commitment of citizens, on October 26, 1917 the Bolsheviks (by Decree No. 2 of the Russian Congress of Soviets) abolished this decision. But the move was symbolic, since the first months after the October Revolution, executions by shooting without trial and investigation were commonly used in the struggle for power[46].

Meanwhile, Belarus once again found itself in an ambiguous situation. On one hand, in the USSR there was Belarusian statehood (we are talking about the Belarusian SSR). Accordingly, there was the national legislation, such as the criminal codes of 1928 and 1960. On the other hand, the degree of centralization was extremely large. Therefore, these documents were adopted only after the adoption of the relevant codes in Moscow. All impulses came from the Soviet capital. Therefore, it is impossible to avoid referring to the general Soviet reality.

On September 5, 1918, the “On Red Terror” resolution was adopted. It stated that, “The Council of People’s Commissars <...> believes that <...> it is necessary to protect the Soviet Republic from class enemies by isolating them in concentration camps; all persons related to the White Guard organizations, conspiracies and rebellions are to be shot; it is necessary to publish the names

44 Startsiv V.I. The Internal Policy of the Provisional Government. L., 1980. page. 185.

45 Zhiltsov, S.V. Death Penalty in the History of Russia, p. 214-215.

46 Zhiltsov, S.V. Death Penalty in the History of Russia, p. 225.

of all the shot, as well as the reasons for using this measure against them"[47]. The Red Terror continued until the end of the Civil War (about 1923).

Such documents weren't a private initiative of a certain group of Bolsheviks, but were fully consistent with the Marxist ideology. According to the theorists of Marxism (Karl Marx, Friedrich Engels and Vladimir Lenin), a capitalist society in which there were oppressed classes was to become a communist, classless one. In this case, the existence of the state would be unnecessary. However, there was the need for a certain transitional period, during which the state would still exist, all power would belong to the proletariat, and the form of government would be the dictatorship of the proletariat. The dictatorship was necessary to destroy the existing system and defeat the classes that would resist its change. "The more democratic a state is that will consist of armed workers...the faster the state will die off", wrote Lenin[48].

This ideology influenced the formation of the class approach in conducting the criminal policy and the development of the theory of revolutionary legal consciousness. As written by S.V. Zhiltsov, "the revolutionary legal consciousness didn't restrict either the authorities or the judges in determining the extent of the penalty (including the capital punishment) for crimes in order to protect the revolution, which didn't need to comply with the rule of law, but with the inner convictions of "certain individuals", then – groups of people and, finally, the whole humankind. Hence, there inevitably follows the monopoly on the truth held by certain individuals – the leaders of the Bolshevik Party (Politburo)"[49].

These views were reflected in the Criminal Code of the RSFSR in 1922 (the same year the CEC of BSSR adopted the decision "to extend the action of the RSFSR Criminal Code on the whole territory of Belarus"[50]). The Criminal Code envisaged the death penalty in a number of articles [for counter-revolutionary crimes (political terrorism), as well as for a number of criminal,

47 GULag (Main Camp Administration) 1917-1960 / compiled by A.I. Kokurin, N.V. Petrov. M., 200, page 15.

48 Lenin V.I. State and Revolution // Complete Works. Volume 33, page 102.

49 Zhiltsov, S.V. Death Penalty in the History of Russia, p. 222.

50 Arlouskaya A.I. Death Penalty in the History of Belarus // Actual issues of improving legal education in secondary vocational schools. Minsk, 2011[Electronic resource]. Access regime: http://www.law.bsu.by/pub/31/Orlovskaya_1.pdf.

official and economic crimes]. All in all, there were 28 such crimes[51]. One can see a certain irony in the fact that two years earlier, in January 1920, the Bolsheviks abolished the death penalty in connection with the cessation of active hostilities in the Civil War. But in May of that year, it was again restored. The logic was simple. The death penalty was the most effective means of struggle against opponents. For example, a counter-revolutionary crime was defined as "any act aimed at the overthrow of the government of the Soviets of workers and peasants established by the proletarian revolution[52]". In fact, any action could be prosecuted under this definition.

The Criminal Code had an openly class character. For example, representative of any class could be held liable for counter-revolutionary crimes. At the same time, the law was humane to all offenders belonging to the class that had been previously exploited, i.e. workers and peasants. If representatives of this class committed premeditated murder under aggravating circumstances (for example, murder out of jealousy if the person had already committed such a crime, and so on), they were to be deprived of liberty "for a term not less than eight years, with strict isolation"[53]. The Bolsheviks believed that any criminal who believed in the Communist idea, could be re-educated[54].

The next step in the formation of a totalitarian society was the adoption of the Criminal Code of the RSFSR in the 1926 edition (in fact, it was a completely new code, different from the one that was adopted four years earlier), which came into effect the following year. It describes 50 offences for which the death penalty was envisaged as one of the penalties. These include counterfeiting, refusal of a person obliged to military service to implement an order in time of war, desertion in time of war, and so forth)[55]. Especially notorious became Article 58.10, "counter-revolutionary agitation and propaganda". When the development of a new Penal Code (adopted in 1928) started in the BSSR, it was simply copied from the Russian one, but with a different numeration of the articles[56].

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51 Zhiltsov, S.V. Death Penalty in the History of Russia, p. 284.

52 Collection of Laws of RSFSR. 1992. No. 15, page 153.

53 Ibid.

54 Zhiltsov, S.V. Death Penalty in the History of Russia, p. 286.

55 Ibid., p. 303.

56 Non-conformism in Belarus: 1953-1985: Reference Book, authored and compiled by A. Dziarnovich. Minsk: Athenaeum, 2004. Volume 1., page 214.

Another feature inherent in Soviet law at that time was the use of the method of analogies. Article 6 of the Criminal Code of the Belarusian SSR for 1928 stated, if the code does not provide liability for a specific offence, the court may determine the responsibility on the basis of the articles that are most suited to it. Of course, this created wide opportunities for abuse[57].

During this period, the state made an emphasis on an accelerated industrialization and collectivization. This course didn't meet support from most of the population. As a result, Joseph Stalin re-employed the theory of revolutionary legality. He confirmed the thesis that with the approach of socialism the resistance of the overthrown classes was getting more and more ruthless, which became the reason for mass repressions. With this purpose, in 1930 emergency legislation was adopted. The immediate reason for this was the murder of a Politburo member, Sergey Kirov, in 1934. On Stalin's orders, within several hours, there was a decree designed that was titled, "On the order of investigating cases regarding the preparation of terrorist acts", which operated until 1956. According to it, the investigation of such cases was carried out for no more than ten days. The indictment was handed to the arrested one day before the trial. The court verdicts were without appeal. A verdict on capital punishment was executed immediately after its announcement[58]. These documents became the legal basis for the mass repression that reached the largest scale in the 1937-1938.

Sentences were handed down by a "troika". What does it mean? On July 31, 1937 the People's Commissar of Internal Affairs, Nikolai Yezhov, signed an order stating, "On operations to repress former kulaks, criminals and anti-Soviet elements". Cases were considered by "troikas", consisting of the local head of the NKVD, the local prosecutor and a representative of the Communist party. The verdicts were made in absentia on the basis of the cases that were presented by the NKVD, and often, according to the lists of those arrested (without cases). The verdicts were often based on the confessions of the arrested. But we know what methods were used to achieve such confessions. Quite indicative is the story of Vilhieĺm Knoryn, who twice headed the Belarusian Communist Party (in 1920-1922 and 1927-1928) and, accordingly, the Belarusian SSR. During the interrogations Knoryn was forced to stand on his feet for 24 hours in a

57 Non-conformism in Belarus: 1953-1985: Reference Book, page 215.

58 Zhiltsov, S.V. Death Penalty in the History of Russia, p. 344-345.

row[59]. After that, the investigator tortured him with a blowtorch. When a prisoner saw Knoryn in the shower naked, his whole back was burnt, skeletal bones were visible[60].

The trial was a fiction, too. The meeting of the Military Collegium, at which Knoryn pleaded guilty, lasted 20 minutes including the issuance of the verdict. November 17, 1938 "troikas" were abolished[61]. Nevertheless, the repression continued. The total number of victims is still unknown. According to official data (references of the 1st special department of the Ministry of Interior of the USSR for 1953), in 1937-1938 alone, there were issued 681.6 thousand death verdicts (and for 1921-1938, 745.2 thousand)[62].

In 1947 a decree was issued by the Praesidium of the Supreme Soviet of the USSR, "On the abolition of the death penalty." It can be assumed that the reasons were political, and were meant to create a positive image of the Soviet Union in the world. But in reality, the death penalty (as well as after its cancellation in 1920), continued to be used by the Ministry of State Security in cases of counter-revolutionary crimes. And three years later, in January 1950, "due to numerous requests of workers", a decree was issued, "On the use of the death penalty against traitors, spies, diversionists and bombers"[63].

The category of "traitors" included members of underground anti-Soviet organizations that operated after the war in Western Belarus ("Seagull", the Union of Belarusian Patriots). For example, in June 1947, four members of the Union of Belarusian Patriots were sentenced to death, later commuted to 25 years of concentration camps. In July 1950, a leader of the Miadziel-

59 Krivitsky V. I was Stalin's agent [Electronic resource]. Access regime: ttp://scepsis.net/library/id_622.html.

60 Pyatnitsky V.I. Osip Pyatnitsky and the Comintern on the scales of history. M.: Harvest, 2004. p. 455.

61 Composition of the troikas of NKVD- UNKVD of 11937-1938, established for consideration of cases of the persons who were arrested in the course of the mass operation on order of NKVD USSR No. 00447 of July 30, 1937 [Electronic resource]. Access regime: http://www.alexanderyakovlev.org/almanah/inside/almanah-doc/1007240.

62 References of the 1st special department of the Ministry of Internal Affairs on the number of arrested and convicted persons for the period of 1921-1953 [Electronic resource]. Access regime: http://www.alexanderyakovlev.org/fond/issues-doc/1009312.

63 On the use of the death penalty against traitors, spies, diversionists and bombers [Electronic resource]. Access regime: https://ru.wikisource.org/wiki/Указ_Президиума_ВС_СССР_от_26.05.1947_об_отмене_смертной_казни.

Smarhoń youth anti-communist underground Rascislaŭ Lapicki was executed by shooting[64]. Finally, one of the last victims of the Stalin era was Janka Filistovič, whom the Americans delivered by plane in Belarus, in 1951. Filistovič commanded a group of five people and even made a successful attack on a printing house. However, the following year he was arrested, and was executed in November 1953[65].

This event took place after the end of the Stalin era (March 1953), and whose death symbolized an important trend. Opponents of the government were no longer sentenced to death for their political activities (except, perhaps, the history of Liavon Barazna, a painter who was killed in 1972 under mysterious circumstances)[66].

In 1960, a new Criminal Code of the RSFSR was adopted, along with a corresponding code of the BSSR (which entered into force in 1961). Compared with the preceding Stalin era, the number of crimes punishable by death was reduced, but still remained quite large. Specifically more than 30 crimes were punishable by death, which included: premeditated murder with aggravating circumstances (Art. 102); rape with aggravating circumstances; treason; espionage; banditry; attempt on the life of a police officer or a police helper in the performance of official duties; a terrorist act that caused the death of a person; hijacking that caused a person's death; violation of the rules of currency transactions on a large scale; mediation or bribery on a large scale or committed by a person previously convicted for similar crimes, and so on[67].

As already noted, the article of "high treason" ceased to be used against political opponents of the Soviet regime. Nevertheless, it existed and was even used against women. In general, since 1960 and until the collapse of the Soviet Union, three women were sentenced to death: Berta Borodkina

64 Hardziyenka A. Youth anti-Communist organizations on the territory of Belarus in 1944-1953 [Electronic resource]. Access regime: http://jivebelarus.net/history/new-history/oposition-in-belarus-1944-1953.html?page=2.

65 Litskevich A. "A wholly pro-independence movement..." // Bielaruskaja Dumka. 2009. No. 8, pages 74-81.

66 Vasileuski P. Barazna Liavon Tsimafeyevich // Non-conformism in Belarus: 1953-1985: Reference Book / authored and compiled by Aleh Dziarnovich. Minsk: Athenaeum, 2004. Volume 1, pages 29-33.

67 The Criminal Code of the Republic of Belarus of 1961 [Electronic resource]. Access regime: http://pravo.levonevsky.org/kodeksby/uk/1961nev/index.htm.

(for speculation and corruption), Tamara Ivanyutina (for poisoning people) and Antonina Makarova ("Tońka-machinegunner"). The fate of the latter was connected with Belarus. During World War II, Makarova was taken prisoner by the Germans, went into their service and shot civilians and guerrillas in Bryansk (about 1,500 people). After the war, she took out a document on yet another person, impersonating a nurse who had served in the Red Army during all four years of war. Makarova married a Belarusian and in 1945 moved to his home city, Liepieĺ. She was arrested there only three decades later, in 1978, was taken to Bryansk (where she used to kill people) and was executed for high treason in 1979.

In the 1980s, Belarus learned about two high-profile cases ("Mazyr" and "Viciebsk"), which strongly undermined the reputation of the law enforcement system. USSR residents learned about the Mazyr case from "Shadow of a Mistake", published in the newspaper "Izvestia" by Mikalai Matukouski, its correspondent in Belarus. In the summer of 1981, the corpses of an inspector of the Mazyr district inspection and an investigator of the local prosecutor's office were found in one of the lakes of the Homieĺ region. Five people were accused. There was no direct evidence indicating their involvement in the murder. Nevertheless, the public prosecutor of the Prosecutor's Office of the Belarusian SSR offered to punish all defendants with death. Several investigators of the prosecutor's office, who offered to dismiss the case for lack of evidence (including Mikalai Ihnatovich, a future People's Deputy of the USSR and the first prosecutor of the later independent Belarus) were suspended from work. During the investigation, "physical beating and violence" were used against the defendants. Two years later, in 1983, the real killers were found.

As a result, in December 1983 a report "on the facts of blatant violations of the law by the law enforcement bodies of the republic", was read at a meeting of the Bureau of the Central Committee of the Communist Party of Belarus. The Interior Minister Henadz Zhabitski, his deputies Pavel Zhuk and Ivan Tsimashenka, as well as the prosecutor of the BSSR Adam Mahilnitski and his first deputy Piatro Dudkouski, were barred from their posts within the framework of the Mazyr case. However, the policemen who had fabricated the cases have never been held liable[68].

68 Ankuda A. Waste of the Country of Soviets-2 // Belgazeta 2004. October 18 [Electronic resource]. Access regime: http://www.belgazeta.by/ru/2004_10_18/arhiv_bg/8396/.

Two years later, the Viciebsk case thundered in. Since 1971, women started disappearing in the area of Polack, Viciebsk, as well as in the surrounding rural areas. Later they were found smothered. It got to the point that women in Viciebsk and Polack refused to come to work during the second and third shifts. Every time, the investigative bodies found the "guilty" individual and forced them to confess to the crimes. As a result of 11 trials, 13 persons were convicted. One of them was sentenced to death, another became blind in prison and was released as a person who presented no danger, two were sentenced to 15 years in prison, and another to 10 years in prison. The real killer, Henadz Mikhasevich, was finally arrested in 1985. By that time he had killed at least 36 women[69]. Why did it happen? Among other reasons, Mechyslau Hryb, then head of the Department of Internal Affairs of the Viciebsk Regional Executive Committee (who headed the investigation of the Viciebsk case since 1985), called two circumstances that helped Mikhasevich escape capture to light, namely, "the corrupt system of the assessment of law enforcement on the basis of detection of crimes, and very strict requirements to disclose crimes at any cost, posed by higher law enforcement agencies"[70]. Interestingly, as a result of the investigation the group that disclosed Mikhasevich's crimes, "got in the centre of a negative attention of the higher authorities. It was as if we were to blame for revealing these violations of the law, publicized them and therefore casting a shadow over the whole ministry", wrote Hryb. He hinted that it would be better if Mikhasevich died before the trial, possibly while trying to escape. Nevertheless, the case was brought to court and the offender was executed by shooting. None of the participants of the investigation received any awards or acknowledgement[71]. The Mazyr and Viciebsk cases witnessed numerous problems in the activities of the law enforcement agencies in Belarus, as well as the danger of the death penalty in the Soviet Union, whose victims were often innocent people.

The overall effect was doubtful, too. The Criminal Codes of the BSSR in 1928 and 1960, stressed the temporary nature of the death penalty.

69 Mikhasevich, Henadz Madestavich [Electronic resource]. Access regime: http://www.serial-killers.ru/karts/mihasevich.htm; Hryb M. Belarusian bridge: history, facts, events [B.m.], 2006, page 49.

70 Hryb M. Belarusian bridge: history, facts, events. Page 49.

71 Ibid., pages 50-51.

However, at the end of the Soviet regime it was still envisaged by 33 articles of the Criminal Code of the RSFSR, and other Soviet republics. 11 of them concerned crimes against the state, and 16 concerned military crimes. According to S.V. Zhiltsov, an exception to the rule finally turned into the rule itself[72]. Meanwhile, according to the calculations of G.Z. Anashkin, the death penalty had no impact on the increase or decrease in crime. It is interesting that the author of these calculations drew them in the guidebook, “The law of the USSR on the death penalty and the practice of its application”[73]. As noted by S.V. Zhiltsov, this book was marked “for official use only”, even in 2002 and was not issued to ordinary readers[74]. It means that this “effect” of the death penalty was known already in 1969, but it was concealed from a wider audience.

Thus, the history of the death penalty in Belarus has had a long evolution, affected by particular historical epochs and political circumstances. This is how it transformed from the collective to individual responsibility, from such severe forms of punishment as quartering and impalement, to shooting, the annihilation of political rivals, the refusal from use of the political factor, from a form of social regulation (as an alternative to blood feud), to the intimidation of potential killers. But the death penalty has not changed and could not change human nature. After the collapse of the USSR, the death penalty still remains in domestic legislation. The attitude of this form of penalty is one of the main problems of contemporary society.

Dzianis Martsionovich

72 Zhiltsov, S.V. Death Penalty in the History of Russia, p. 434.

73 Anashkin G.Z. The law of the USSR on the death penalty and the practice of its application. M.: Vyssh. ik. MVD SSSR, 1969.

74 Zhiltsov, S.V. Death Penalty in the History of Russia, p. 434.

The Mystery of Burial for the Executed

The death penalty becomes widespread during the suppression of uprisings and revolutions.

Dominican Monastery – the Last Stand before the Execution

It is also true for the suppression of the uprising of Kastuś Kalinoŭski, when 128 rebels were executed on verdicts of Russian martial courts and Mikhail Muravyov, governor-general of the North-Western Territory with "extraordinary powers", was nicknamed "the hangman". According to a special law (Art. 529 of book 2 of the Military Criminal Statute of 1859), insurgents were executed either by a firing squad or by hanging.

During the uprising of 1863, the Dominican monastery in Vilna was turned into a prison. Kastuś Kalinoŭski was held there before the execution. Under the law, those who were sentenced to death were to be executed within two days after the delivery of the sentence. It is here where his famous, "Letter from under the Gallows", was written. Kalinoŭski was publicly hanged in Vilna on March 10, (22), 1864 on Lukiški (Lukiškės) Square. The bodies of the executed rebels were not given out for burial (this tradition is retained in contemporary Belarus), and they were brought to Castle Hill (Gedimin Hill), where a Russian garrison was deployed, and were buried secretly. The territory was guarded.

Siarhei Dubavets wrote in his article "Gedimin Hill is Kalinoŭski's grave"

"The execution took place on March 10 on Lukiški Square. The gallows, on which the hero was hanged, was standing between the former KGB office (now the museum of genocide) and the Conservatory.

After the execution, the hero's body was driven right to the Castle Hill along Yuraŭski Avenue (now called Gediminas Avenue). The Russian garrison was situated there at that time. As far as the places of burial of the executed insurgents, they immediately turned into places of pilgrimage, it was decided to bury the hero on the territory of the garrison. Moreover, the place of his burial was turned into a cricket playground. That's how it was until the

beginning of the First World War, when the Russian garrison left Vilna. In 1915, Vilna archaeologists excavated the grave, described it and documented the burial of fifteen rebels in it. The bodies were identified by their clothes. By the way, their report mentions, "Kalinoŭski's moccasins". In 1921 the grave was turned into a memorial, consisting of a large wooden cross, made by the Vilna architect Antoni Vivuĺski, and a marble plaque with the names of all those buried there. In 1940, after Stalin passed Vilna to Lithuania, the cross was burned and the plaque was gone without a trace.

Since then, the former "cricket ground" has become an ordinary wasteland. There is only one flat area on the rugged top of the Castle Hill, that's why it is easy to find. If you had to get to the hill by a cable car, you would get right to this spot."

Svaboda. 2008. January 31.

Now there is a wooden cross and a memorial plaque in honour of Kanstuś Kalinoŭski on Lukiški Square in Vilnius, and another plaque on the walls of the Dominican monastery.

A Grave at the Military Cemetery in Minsk

At the Military Cemetery in Minsk, on the central avenue to the left of the entrance, there is a monument of red granite with the inscription, "To Ivan Pulichaŭ. Executed in the night of February 24-25, 1906, for an attempt on the governor of Minsk, governor-butcher Kurlov. From the Belarusian society of political prisoners."

How did the grave of this executed man appear in Minsk? Were the bodies of those executed issued after the enforcement of the sentence in the beginning of the 20th century? Or is it a symbolic grave, and there is no body of Ivan Pulichaŭ, who made an attempt on the governor Kurlov, the organizer of the shooting of the peaceful rally on the Railway Square in October 1905, as a result of which about 100 people were killed and more than 300 were wounded?

In the Russian Empire, the bodies of those executed were not issued for burial. We don't know exactly where the grave of Kalinoŭski and his associates is, we only know that it is on Gediminas hill in Vilnius. In the then state, the government feared that the graves of those executed (and they often executed political prisoners), would become places of gathering

of their opponents and their commemoration. The Russian Empire, which violated the social and national rights of a large number of groups, used the death penalty as a means to suppress resistance.

Meanwhile, some public initiatives for the abolition of the death penalty were established at that time. In the summer of 1908 there was a call for the establishment of the, “League against the Death Penalty.” At that time, such leagues successfully operated in Western Europe. In the Russian Empire, the establishment of the league was expected during the jubilee of the writer Leo Tolstoy. The aim was to prepare the society for the abolition of the death penalty. But in 1909 the organization was denied registration with the explanation that it “could threaten public peace and security”.

The violent tradition to punish not only a man, but also his remains, dates back to ancient times. We should be reminding of a character from one of Sophocles’ tragedies, Antigone, who was not allowed to bury her brother, but nevertheless did it at the cost of her life.

The tradition of secret burying continued during the Stalinist repressions. So-called enemies of the people were shot at night in the beams of car lights. In particular, that’s how it was done in the Kurapaty forest near Minsk, where from 102 to 250 thousand people were shot. The excavations in 1992 revealed traces in a part of the graves that witnessed the attempts of the executioners, to hide their crimes.

After the 20th Party Congress that denounced Stalin’s repressions, such “execution” forests were often guarded by former members of the secret police, participants of firing squads, who became foresters or guards. Their aim was to keep an eye on the mass graves and protect them from interested people so that no one would dig them (for instance, during the children’s military-sports game “Zarnitsa” or subbotniks (Saturdays on which USSR citizens were encouraged to work for free). This practice existed not only in Belarus, but also in other Soviet republics. That was the case in Lithuania, as an activist of the campaign “Human Rights Defenders against the Death Penalty” was told by Eugenijus Peikštenis, the director of the Lithuanian Museum of Genocide Victims (which is often erroneously called the KGB museum). This is also true for Kabyliackaja hill in Orša, where a former executioner Sidarenka, who used to shoot people during the repressions, and worked as a forester.

But still, who is buried at the Military Cemetery in Minsk, in the grave of the socialist-revolutionary Ivan Pulichaŭ, who was hanged

in 1906 between the inner and outer gates of “Valadarka”? In this case, the state secret that protected the information about the place of his burial was disclosed. However, it was disclosed only after the revolution, when the Russian Empire collapsed. After the execution Ivan Pulichaŭ was secretly buried on the outskirts of Staražoŭskija Cemetery. We can imagine how he was buried at night, in the light of torches... The place of the burial was known to the cemetery guard, and 20 years after the burial he showed the place to the political prisoners who decided to honour Pulichaŭ’s memory. A slab of red granite was put on his grave. The monument stood on Staražoŭskija Cemetery until its liquidation in 1954, after which Pulichaŭ’s remnants and the gravestone were moved to the Military Cemetery.

In today’s Belarus, the places of burial of the executed, remains a secret that is protected by Part 5 of Art. 175 of the Criminal Executive Code, which states that “bodies are not issued for burial, the place of burial is not reported”.

Aleh Alkayeu, who was the head of the Minsk remain prison No. 1 in 1996-2001, and with whose participation about 150 death sentenced were executed, tells about the procedure of execution, what the executioner feels, how the prisoners behave at the last moment. He talks about everything except for the places where the executed prisoners are buried. He told activists of the campaign “Human Rights Defenders against the Death Penalty”, that all of the places were known and there were corresponding documents, but he could not speak about them, since they were a state secret, were protected by the law, and he had given a written undertaking not to disclose this information.

Alexandra Izmalovich: The Walls, Bars and Darkness Groaned and Screamed Wildly...

One of the most tragic events in Minsk in the early 20th century became the shooting on the Railway Square on October 18 (31), 1905, when the demonstration that, according to various sources, counted from 15 to 30 thousand people, was shot by military troops. The number of the killed was between 50 to 100 people, about 300 were wounded, and many demonstrators were arrested.

On January 14, 1906, the socialist-revolutionaries Alexandra Izmailovich and Ivan Pulichaŭ participated in an attempt on the governor of Minsk,

Pavel Kurlov, who had given the order to shoot the peaceful demonstrators. The court sentenced both of them to death, but for Izmailovich, the sentence was replaced by indefinite hard labour.

In her memoirs, “From the Past”, written in exile, Alexandra Izmailovich described in detail her psychological state during the anticipation of the death penalty in Minsk prison, Piščalaŭski castle. Now this is Remand Prison No. 1 on Valadarski Street, in the very centre of Minsk, where death sentences are still executed.

“The realization that the end is near, was getting stronger. I had to hurry. Everything that I was doing, what I was thinking before, became a hundred times brighter, stronger and more expressive, illuminated with this awareness. It seemed that my nervous system regenerated into a higher-order one, which was doubtlessly subtler. I started feeling an unusual great love for all comrades, for all people and the whole world.

I seemed to have moved to a different atmosphere that was able to increase the discretion of sounds and colours manifold compared to the atmosphere of air. I have never loved life so much as in these days of “translucence”. The sun, the blue skies and the tree-tops that stood out sharply on the evening purple sky behind the prison wall have never told me that much. Love that merged into a quiet admiration, into the glow of the soul, was my main mood. However, there was an inseparable sadness, quiet and gentle. These trees would turn green in the spring, they will live, I thought, and I will not see them, will not see life. It was sad for me not to be able to see their bloom and to have to take them with me dead. I wanted to know who will win.

I didn’t want to pass away at night. I wanted to die in the sun. There was not a single woman hanged in the loop after Perovskaya. There was no Konoplyanikova, Benediktova, Mamayeva, Shereshevskaya by then <...>

I cannot understand why we, without any grounds, were sure that this night Vasia [the underground nickname of Ivan Pulichaŭ] would not be taken away from us. We went to bed late, as always, at about two. The awakening was terrible. I woke up from a continuous wailing and sobbing. The night was pitch dark and it seemed that it was her, the walls, bars and darkness who groaned and screamed wildly... Everything became clear for me in an instant. I ran up to the window – there was a weak gleam of a street-light on the snow, and the guard is walking... I don’t know why, but I ask him what it is. He keeps silent...

I distinguished female moans, hysterical sobs and some strange abrupt phrases. I couldn't make out what they were shouting, whether they were sharing the terrible details or were sending into the night their mad courses in wild rage and despair. These cries were the most terrible thing. Next to them, the groans and hysterical sobs seemed something usual. In these disorderly cries sounded the painful awareness of one's powerlessness at the moment when the heart is torn by the fiery hatred, when a soul sees its impotence...

I remember I did not shed a single tear, but was shaking all over, as in a heavy fever. My soul was like a cold stone. At the morning checking I asked the superintendent whether Pulichaŭ had been hanged.

He silently nodded without looking at me. Soon after the morning check the men solemnly sang, "You fell victims...". That's when my woodiness ended and tears streamed from my eyes.

They finished the funeral march, again sang the end of, "Good bye, brothers, you have honestly died...", and repeated this mournful "forgive us" many times. Then everything got quiet for a minute and the song was started anew in the other end of the cellblock. Afterwards I learned that a crowd had gathered in front of the prison and comrades had hung black flags out of the windows. I saw how the prison chief passed by my window, how the guard was looking on all upper windows. Olga cried in my window, "We have announced a hunger-strike today. We will not put on the lights in the evening."

"Who will win?", wondered Alexandra Izmailovich on death row in Piščalaŭski castle. But victory was different from what she could expect.

After the revolution, Alexandra Izmailovich was persecuted for her principled criticism of the new government. In 1937, the Military Collegium of the Supreme Court of the USSR sentenced her to ten years in prison on charges of belonging to a terrorist organization, and on September 8, 1941 she was sentenced to death. She was shot together with other political prisoners on September 11 in Medvedevsky forest near the Russian city of Orel.

Totalitarianism and the Death Penalty

The death penalty that is kept in Belarus, can be used not only against criminals, but also against political opponents. Crimes of Communism still have not been condemned in Belarus, and the present authorities in many respects are heirs of those who carried out mass executions of dissidents.

Totalitarianism and the death penalty are inextricably linked, and the death penalty is a means to keep society in fear.

Mikola Kryvaltsevich: Found Items Showing that People Prepared Themselves for Long Travel

The world learned about what had happened in Kurapaty in 1988, after the publication of the first article by Zianon Pazniak and Yauhen Shmyhaliou, “Kurapaty – the Road of Death”, in the newspaper “Litaratura i mastactva”. This publication was the beginning of a big initiative and shaping of the public opinion on the necessity of research and exhumation of graves in Kurapaty, in order to show and prove that shootings had really been performed there during the time of Stalin.

In 1988, the excavation in Kurapaty involved soldiers who dug out human remains from huge pits and piled them into small coffins made of boards. It is still unclear whether these remains were re-buried afterwards.

Archaeologist Mikalai Kryvaltsevich participated in the exhumation in Kurapaty as an expert. He speaks about the mystery of what happened to the remains of people and things that were taken by the prosecutor’s office:

– *People’s remains and the things that were found as a result of the exhumation were taken by the prosecutor’s office. It is very hard for me to tell what happened to these remains afterwards. When it comes to why the truth about Kurapaty is hidden or silenced and the attempts to falsify and discredit what was found and documented in Kurapaty are made, it somewhat correlates with the present situation. Now cruelty is sometimes justified, including even the shooting of people.*

Mikola Kryvaltsevich tells about the peculiarities of the work related to the exhumation of the bodies:

– In the summer of 1988 Zianon Pazniak appealed to Aleh Iou and me, asking us to participate in the exhumation of the graves in Kurapaty as experts. The work on the exhumation of the graves was conducted by the prosecutor's office. It was officially called an investigation aimed at finding who had carried out the shootings in Kurapaty. Six graves were exhumed, as there was very little time, and all research was to be conducted within ten days. The most typical graves, pits in the forest, were selected for it. First of all, during the preliminary investigation it was found that there were more than 600 graves in the forest. No doubt, the number of the graves used to be higher, as some of them were destroyed by a gas pipeline, roads and deforestation. Closer to the roads to Zaslaŭje we most often came across the remains of people who most likely came from the local area, from Eastern Belarus. Farther from the road, over the hill, there were graves of the people who were brought from areas located in Western Belarus and the Baltic States. This is evidenced by things that were produced in the Soviet Union and other states, and by other indirect data. We found deep pits (up to two meters deep), and up to several square meters in size. They were covered with sand at the top, and were filled with skeletons, human remains, from the middle to the bottom. Among them we also found things. These things witnessed that the people were getting ready for long travel, as they took what is usually taken for travel – a toothbrush, soap, warm clothes, etc. The remnants of such things were found in these graves. The whole range of things witnessed that the shootings were performed in the late 1930,s and the minimal number of people who could be shot there was 32,000 people. This number follows from the exhumation of the graves, the number of the people shot in each grave, and from the number of the pits that were identified at that time. No doubt, the number of the executed could be larger, but nowadays this is extremely difficult to ascertain.

It was only during the exhumation of the fifth grave, that the remains of more than 260 people were found. It was quite a large grave. Most of the people in it were from Belarus and the Baltic countries. There were quite many women in the grave.

Iryna Ashker: The Father Just Waved His Hand: "Go Home, Don't Wait for Me!"

The book, "Chronicles of Political Terror. Krupki Area. 1918-2008", is dedicated to the people who were shot for their views. The reference book contains information about the repressed and shot citizens of the Krupki and Chalapieničy districts, as well as articles by Siarhei Dubavets, dated to the 20th anniversary of the discovery of the truth about Kurapaty.

The book contains much information and many facts from the archives of the security services that were published for the first time, as well as many authentic pictures, namely photos of the killed people and their families. The author and compiler is a researcher from Krupki, Andrei Aliakhnovich, and the editor is Siarhei Dubavets.

While working on the book, Andrei Aliakhnovich gathered unique material, including the memories of Iryna Ashker about how her mother saw the father being lead out for shooting from the prison gate in Orša. This is a really rare testimony, as usually shootings were conducted secretly.

Iryna Ashker:

– It was at dawn, maybe at four...they started taking people away, beginning from the end of the street – they had a list by which they took the people. My father and grandfather were taken away at once. The next morning, my mother went to Orša to warn her brother Ryhor. In the evening a car stopped near us, they went out, greeted us and said :"Come! We arrest you!" That's how they arrested my grandmother Safiya and my aunt Nadzia. The women started crying... grandmother took an icon with her – she wrapped it in a towel. They stopped her, saying: "You don't need it, leave it at home". Several days later my mother went to Orša again, to find what happened to them all. She took lard and bread, as well as some clothes for the women. The clothes for the women were taken, but nothing was taken for the men. My mother went to Orša with her younger sister. They were in the courtyard of the Orša prison and saw prisoners being lead out – the gate was opened, soldiers were put on the both sides... The people were lead out as if out of a barn, hands behind their backs, in grey or coloured clothes. The men walked out with bent heads. My mother and aunt saw it all. My father just waved his hand and said, "Don't wait for me, go home!". My mother fainted and didn't know

who took her home. My aunt started crying. The people were put in cars that kept coming one after another, and all of the people were standing and looking at it. Silently. Nobody uttered a word. Guards with rifles were standing behind their backs. My aunt brought my mother home..."

These are the memories of Iryna Ashker, born in 1934, daughter of Mikhail Ashker, born in 1906, arrested in 1937 and shot on November 10, 1937 in Orša. His father, mother, brother and sister were shot the same night together with him. Another brother was shot in 1938 in Moscow.

According to the "Chronicles of Political Terror. Krupki Area. 1918-2008".

The Executions of Priests

In the 1920-1930s, shootings of priests took place in the then Orša (near the Mahilioŭ highway, now neighbourhood No. 3). Their memory still hasn't been honoured, and there is no memorial sign.

Yury Koptsik, a researcher from Orša, says that this is a place of recreation for residents of the neighbourhood. The people who come here to drink alcohol do not know they are drinking on graves.

Here is a testimony of a resident of the village of Paddubcy, S Kandratsenka:

"At two o'clock in the morning, we saw a prison van with two lights on its top. The car was approaching, but turned to the left not far from us. We remembered that place. About a week later we were returning from the city. I offered my companion to go and see where the car was going – there was a good exit from the highway. In the forest, we saw a small girl sitting near a fresh grave, and her old grandmother near her. On the grave, there was a hundred gram bottle of vodka and some barley porridge in a bowl, called Eve. We greeted one another. The old lady said:
– Sit down, let's commemorate the deceased.
– Who is buried here? – we asked.
– My son, children, he was a priest, and he was shot here. And this is my granddaughter, – she pointed at the girl.

I looked around, and there were many such graves, the earth was dug up everywhere. Some of the graves weren't even filled up well, the land subsided there."

"Litaratura i Mastactva. 1990. October 12"

Yury Koptsik: The Death Certificates Read "Inflammation of the Brain", instead of "Shooting"

Countless victims of the Stalinist regime passed through the transit prison in Orša, located in the former Jesuit Collegium. Orša is a large railway junction and the trains by which the repressed were transported from the East and the West stopped there.

Now the restored Jesuit Collegium stands in place of that prison.

People were shot not in prison, but in the suburban forests on Kabyliackaja hill, and near the Mahilioŭ highway. In the 1980s, Orša researcher Yury Koptsik, who then worked as a correspondent for the newspaper "Leninski pryzyŭ", travelled a lot across the country and gathered unique memories of witnesses of the shootings, and relatives of the repressed.

Another little-known fact was discovered during the meetings of Yury Koptsik with the relatives of the shot people. During the Khrushchev "thaw", when the first wave of rehabilitation took place, the death certificates that were issued to the relatives of those shot indicated other reasons of their death, as the number of the killed was incredibly large.

– For instance, they could write "inflammation of the brain" instead of "shooting". And only after "perestroika", in the 1990s, the relatives of the repressed managed to find the true cause of the death of their loved ones, execution by shooting. – says Yury Koptsik.

Kabyliackaja Hill

The main places of the shootings in Orša were discovered in the 1980s. In September 1982, a pit with the bodies of 50 executed was found during construction work in the forest on Kabyliackaja Hill. A commission consisting of representatives of the Soviet administrative bodies (a prosecutor, a forensic expert, a representative of the military enlistment office, and the police), recognized that this was a result of Soviet-era shootings.

On September 20, 1982, the Commission examined the remnants that were found during the construction of the railway line Orša-Paŭnočnaja. After questioning of the local residents and an exhumation, the commission ruled out the possibility that these people could have been shot during the German occupation.

"As a rule, the Germans carried out the executions openly, not in remote areas, from machine guns, without damaging the bones of the head <...> The inspection revealed that the bodies were buried in 1937-1939 in a remote wooded area <...> all fifty skulls have bullet holes in the frontal part".

In the 1990s a memorial sign, a large stone of red granite, was set on Kabyliackaja Hill.

Commemoration of the victims of the shootings that were carried out in the 1920-1930s in the then Orša (now neighbourhood No.3), near the Mahilioŭ highway, remains a topical issue.

Ales Daschynski: The Judge Could Support the Abolition of the Death Penalty, though he couldn't say it openly

How was the topic of the death penalty covered in Belarus? One of the first extensive articles in independent Belarus was the "Death Penalty", by Ales Daschynski, published in the column "Topic", in the newspaper "Naviny" ("Svaboda", February 17, 1998). At that time, the chief editor was Ihar Hermianchuk. The correspondent of the independent newspaper managed to talk with a judge of the Supreme Court on the subject of the death penalty.

Ales Dashchynski:

– I just said I was from the newspaper "Svaboda" and the judge agreed to talk in his office. I taped the interview. Everybody was surprised that I managed to get it. Obviously, access to judges was by far simpler at that time.

I knew that the judge had imposed death verdicts and yet I had decided to just go to him. I was afraid that if I negotiated about the meeting on the phone, he could get frightened and refuse to be interviewed by "Svaboda". Therefore, I decided to try my luck. I went inside, and it seems that the guards were more loyal at that time. I knocked, greeted him, told I was from "Svaboda" and was preparing such an article. "You are a famous judge who has issued death sentences. I've heard many good things about you, that you take all these sentences close to your heart," I added. That was all. He agreed to talk.

Then I went to the Minsk City Court and there, in the office, I was given access to see a few cases in which the death penalty was imposed. Here I negotiated in advance, but received permission, although I was from

“Svaboda”. I returned several times. I saw there one case, and that’s how I tied contacts with a family from Smaliavičy, and for the first time managed to communicate with the mother of a death convict, Maryia Stasialovich, which apparently, hadn’t been done previously in Belarus.

Ales Dashchynski talked with Judge Uladzimir Chamrukou, who passed the largest number of death verdicts during his work in the Minsk City Court, and later became a judge of the Supreme Court.

Here‘s a snippet of the conversation – the judge talks about the psychological state while issuing a death sentence.

– Capital punishment is the weakness of the state. This is the reason why the corresponding provision is contained in the Criminal Code. Out institutions that could bring our society to a normal state, are still weak. I am a gentle man by nature, and it was very hard for me to issue death verdicts. I remember my first case quite well. This was the case of Babinau and Svirkou, who killed an elderly woman, her daugher-in-law and six-year-old grandson, and then set the house on fire to cover their tracks. Both were sentenced to death. The following morning I started shaving and saw that my whole body was covered with red spots. My nervous condition is usually so bad that I do not want to touch food. Sometimes, when declaring the verdict, I want to do it as quickly as possible and come out and light a cigarette. This procedure is very unpleasant. I particularly feared for the relatives of the convicted person. I have no doubt in any verdict, but my hands start shaking. It is very hard to see the tears, crying, fainting mothers, having to call an “ambulance”. It is especially hard to look the convict in the eyes, which immediately become insane. Typically, after the announcement of a death verdict in the court, there comes a deathly silence and somebody can be heard falling or sobbing in it. Convicts also behave differently, some of them begin to tear their clothes, climb the cage, screaming hysterically. Some are silent, some argue that they have committed a very serious crime and therefore have no right to live.

Why did the judge agree to the interview with a journalist of an independent newspaper? Ales Daschynski believes that he could be really moved, or could support the abolishment of the death penalty, although he could not say it openly.

Did General Zakharanka Plan the Abolition of the Death Penalty?

It is known for sure that when he was Interior Minister, General Yury Zakharanka studied the procedure of the death penalty and intended to introduce certain changes. He stated it for the first time in 1998, in an interview with Ales Daschynski, a correspondent of the newspaper "Naviny" ("Svaboda", February 17, 1998). In that interview the former Interior Minister strongly opposed the death penalty.

– In our country, death sentences are executed with the use of medieval techniques. The easiest and cheapest way – shooting – is used. On the eve of the execution, the area is "cleared" of occasional witnesses. Late at night, the criminals (usually several of them are collected) are put in a special car. Their mouths are caulked least they would, God forbid, cry. Some of them cannot move because of the mental scrapping, and have to be pulled to the grave by their hands. Special MIA officers shoot them right in the head – blood starts pouring out of the mouth and ears of the executed man. Sometimes a convict is in a state of a shock. He is shot several times, but doesn't lose his senses. This is a terrible, creepy sight. After the execution, the burial of the bodies (if it can be called so) takes place. They are covered with earth in the position in which they fell in it, all together. The body of the killed man is not passed to his relatives, even his clothes aren't passed. Nobody is told when and where the convict was shot. The relatives don't receive a last farewell meeting. All these issues are regulated not by the law, but by MIA instructions.

Special people with strong willpower have to be picked to the position of executors – not everyone can shoot people. However, even they are unable to continue doing it for a long time, as their psyche gets deformed. By the way, after the collapse of the Soviet Union, some neighbouring countries weren't ready to carry out death sentences. They even tried to enter into a contract so that their death row convicts would be shot in our country for some payment. I categorically refused from such a deal and started to prepare a proposal for the President regarding the revision of the procedure of execution. That's when I became resigned, and that's why I had no time to do anything.

General Yury Zakharanka stated the necessity to abolish the death penalty as follows:

– I believe in the need to eliminate the institution of the deprivation of human life. The death penalty has not been able to deter crime. The forensic psychiatrists who have studied this issue concluded that none of the convicted had been thinking about the possibility of being punished by death before committing their crimes. The number of serious crimes will not increase after the abolition of the death penalty. It would seem cheaper to shoot a man and bury him, but in such a way society buries itself. We need to make a turn to humanism.

During the work on the "Departed on Sentence", activists of the campaign "Human Rights Defenders against the Death Penalty", met with Ales Dashchynski, who spoke about the meetings with General Zakharanka at the editorial office of "Naviny" ("Svaboda") in Ivanaŭskaja Street in Minsk. He said:

– This was an editorial assignment – to return to a topic that hasn't been covered well enough. Little has been written about it at that time. It was the first testimony, and it was given by such a figure as Yury Zakharanka, who was a minister and had to resign shortly before that. He studied this issue himself, as he was deeply concerned with it. In 1998, a year before his disappearance, he agreed to tell how death sentences were executed. Indeed, it is just terrible when you read it. The way they do it witnesses that people were not treated as a people. Now, when I am going through this article again, I have the feeling that nothing has changed for this decade... We met again about a year later, and this interview with Yury Zakharanka happened to be the last one. In fact, a week after it, information appeared that he went missing. I remember that he got to the meeting by car. It was Saturday, and, it seems to me, he was with a driver... Of course, he was a strong man. He was a strong person, a character... We even joked once that the general was moving without guard. Even at that time we could feel that these creeps were after him. As we wrote, a hunt for him had started. He apparently felt that pressure and some danger. While reading the testimonies of Aleh Alkayeu and Uladzimir Baradach, I can't but ask the question whether Yury Zakharanka didn't experience himself what he had been talking about in his first interview about the death penalty.

Could Yury Zakharanka get the death penalty abolished in Belarus? Perhaps... But General Zakharanka fell victim to an extra-judicial execution himself.

Mechyslau Hryb: 13 People were Convicted for the Maniac Mikhasevich's Crimes, and One of Them was Shot

While making the film “Cause of Death Left Blank”, activists of the campaign “Human Rights Defenders against the Death Penalty” met with a public and political figure, an honoured lawyer of Belarus, Mechyslau Hryb.

Mr. Hryb spoke about the irreversibility of the death penalty and the miscarriage of justice that cannot be corrected after the execution. He said:

– I worked in law enforcement bodies for 36 years. One of my posts was as the Head of the Police Department of the Viciebsk Regional Executive Committee. I had to work there in the most difficult time, when maniac the Mikhasevich committed his crimes on the territory of the Viciebsk region. While investigating this case we found out that 13 people had been unlawfully sentenced to long prison terms for the crimes that had been committed by Mikhasevich over 15 years, and one of them, Tsiarenia, had been executed by verdict of the Viciebsk Regional Court. He was shot for nothing. Before that, I hadn't reflected on the death penalty that was used on the territory of the Soviet Union, but after seeing these judicial errors with my own eyes, I came to the conclusion that it was all wrong and no one should be deprived of life.

When concerning the non-issuance of the bodies to the relatives of the executed, Mechyslau Hryb said:

– All this dates back to Soviet times, and then these rules passed over to our republic. If you think about it, today it is unclear why the bodies aren't issued to the relatives. I don't know any other country with such savage manners, though everyone says we are in the centre of Europe, and the geography proves it. But it is a terrible savagery! Why is it done? I cannot give an answer and cannot find an answer for myself.

Mechyslau Hryb emphasized that the death penalty is ineffective in preventing new crimes, as at the time of the crime the offender does not think about the death penalty. According to Mechyslau Hryb, the most important thing about the punishment must be its inevitability.

Valiantsin Stefanovich: There was no Life Imprisonment in 1996, when the Referendum was Conducted in Belarus

Why does Belarus retain the death penalty? Deputy Chairman of the Human Rights Center "Viasna", is confident that the cause must be sought within the Soviet past. In the USSR, the death penalty was envisaged for a wide range of crimes.

– Belarus is a rather conservative country. I mean Soviet conservatism, not a religious conservatism or any other, namely Soviet conservatism. If you recall the history of the Soviet Union, the death penalty plays a significant role in it. In the post-revolutionary period in the 1930s, the Soviet Union actively used the death penalty for a wide range of offences. People were shot not only for murders and violent actions against others, but also for economic crimes or being "enemies of the people". For instance, for a long time there was an article that envisaged the death penalty for an exceptionally large-scale theft of state property. The article was abolished only in the late 1980s. This can explain why Belarus retains this penalty.

A year ago, Valiantsin Stefanovich spoke at the 5th World Congress against the Death Penalty, that was held in Madrid on June 12-16, 2013. The Belarusian human right activist spoke of how the public opinion on the death penalty was formed in Belarus. "I would highlight two aspects with respect to public opinion in Belarus," said Mr. Stefanovich.

– In 2011, 15 people died as a result of a terrorist attack in the Minsk subway. This was the first such case in Minsk, and Belarusian society was shocked, because such crimes had never been conducted in our country before that. It would seem that public opinion was to shift towards the death penalty. However, in this very case, many people started opposing the death penalty, as they did not trust the investigation and the sentence that was imposed in respect of two young people who were accused of committing the terrorist act. Now we can observe a situation in which people speak in favour of the death penalty except for in the "case of terrorists", which was "unfair". The public outcry was so great after the delivery of the verdict to Kavaliou and Kanavalau in 2011, that the two major religious confessions, Orthodox and Catholic, publicly stated their position on the death penalty for the first time. When referring to the referendum of 1996, the authorities forget that the question concerning the death penalty was non-binding and had the

so-called consultative status. Secondly, at the time of the referendum there was no life imprisonment in Belarus – only the death penalty or 15 years of imprisonment. This is a very important factor, too. Public opinion is not static and is subject to changes. Nevertheless, there is no dialogue on the death penalty in society – this topic is not discussed. Public organizations can work in this direction, but their capacity is very limited, and they are not allowed to speak on state television. We can only disseminate information on the Internet and organize street events, which may not always do without consequences for the organizers.

Ivan Famin's Case: Shot for Someone Else's Crimes

In 1998, the Human Rights Center "Viasna", which was then called "Viasna-96", received a complaint from the mother of Ivan Famin, who was sentenced to death. The woman gave the human rights defenders several letters that had been written on death row and passed through the so called prison mail.

The death row convict wrote that he had been convicted for a brutal murder of a taxi driver, which he hadn't committed. He also described in detail the conditions on death row, saying, "*This is pure hell... they beat you for everything... for writing statements to the infirmary and for asking for a priest for confession. And they just beat you for nothing when they are in a bad mood*." Ivan Famin's mother argued that her son was forced to take the blame upon himself by other convicts who threatened to kill his mother and sister.

In 1998, a communication on Ivan Famin's case was sent to the United Nations Human Rights Committee. The Committee began to consider the appeal and informed the Belarusian MIA that the case would be considered at the international level. According to paragraph 92 of the Committee's Rules of Procedure, the State should not carry out a death sentence during the consideration of the complaint on the merits. Despite this, Ivan Famin was executed.

Ivan Famin's story got a continuation in 2012, during the work on the film "Departed on Sentence", when activists of the campaign "Human Rights Defenders against the Death Penalty", went to Berlin to visit Aleh Alkayeu, who was the chief of remand prison No. 1 in Minsk, from 1996-2001. The activists brought there the letters that had been written by Ivan Famin on death row in 1998.

Aleh Alkayeu, who had not only headed prison No. 1, but also the firing squad, said he remembered Ivan Famin very well. He also confirmed that Famin had been shot for a crime committed by other people and “everyone knew” that the convict had incriminated himself during the investigation. Nevertheless, he had been shot. Aleh Alkayeu emphasized that the firing squad just execute court verdicts, the executors don’t decide who was to live and who was to die; decisions were taken at another level.

Siarhei Pratsirayeu – The Man who got out of the Death Corridor

The corridor of death is the corridor in the prison basement, where death row is located, and the only way out is through execution. There are almost no exceptions.

In 1998, the Human Rights Center “Viasna” that was then called “Viasna-96”, received several letters that had been written on the death row in “Valadarka”. Among them there was a letter from Siarhei Pratsirayeu, dated July 15, 1998. Siarhei Pratsirayeu was kept on the death row in prison No. 1 in Valadarski Street together with Ivan Famin.

The letter contained a poem, titled “A Letter Written to the People”, as well as eight pages with a detailed description of the criminal case in which Siarhei Pratsirayeu had been sentenced to death.

The author of the letter stated that his case had been fabricated by fraudulent investigators and wondered why the death penalty still existed in Belarus: *“We, Belarusians, were often surprised at the fact of the illegal shooting of people within the framework of Mikhasevich’s case (“Viciebsk case”). However, the shootings continue in order to show the people a struggle against crime. What will come after such “underparts” as me getting shot? Then they will start shooting ordinary people, because the machine of lawlessness is speeding up, and soon there will be no difference for them who to shoot, like in 1937.”*

In early 1999, the mother of Ivan Famin reported that her son had been executed. And it logically suggested that all the people who were with him on death row were also dead. However, in April 1999, “Viasna” received a letter from Siarhei Pratsirayeu, who wrote from the correctional colony in the town of Hlybokaje. His death verdict was eventually replaced with life imprisonment. Why? There is an opinion that Siarhei Pratsirayeu was the only death row prisoner who was pardoned by the President until 2001.

Part 2.
Legislative Base

The Death penalty in the Republic of Belarus

The original drafts of the Constitution of the Republic of Belarus, prepared by the working group headed by V. Hanchar and V. Shaladonau, didn't envisage the death penalty[75]. On December 3, 1991, the draft Constitution was published for public discussion. Article 24 of the document had the following wording: "The Right to life is an inalienable right of every human being. Belarus protects against illegal infringements on human life and health".

In the edition of the Constitution of April 6, 1993, the wording was changed to, "Everyone has the right to life. Belarus protects against illegal infringements on human life and health."

August 20, 1993, the next working draft of the Constitution was published. Its developers added part 3 to Article 24: "Until its abolition, the death penalty may be applied in accordance with the law as an exceptional punishment for especially grave crimes and only in accordance with the verdict of the court".

However, only 219 MPs voted for this article, which wasn't enough for its adoption. Simultaneously with the process of discussion and work on the draft of the new Constitution, at the end of 1993 and beginning of 1994, an active discussion on the death penalty was held in the pages of national magazines and newspapers that specialized in legal matters. In particular, in June 1993 the newspaper "Respublika" published an article entitled, "Can the State Be a Murderer?". Its author focused on the fact that in Belarus the exceptional measure was applied for 34 types of crimes. At this time only the countries of Iran, Syria, Sudan and Turkey were ahead of Belarus in this respect[76]. Nevertheless, a significant part of the deputies of the Supreme Council of

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75 Abolition of the Death Penalty in Belarus: collection of scientific articles / Republican public association "Legal Initiative", Public Association "Society for Comparative Legal Studies". Minsk, Medisont, 2014. P. 66

76 Abramovich U. Can the State Be a Murderer? // "Respublika", January 16,1993

the 12th Convocation, as well as the majority of judges and prosecutors, agreed on the untimeliness of the abolition of the death penalty. Advocates of the death penalty referred to the increase in crime and the un-readiness of public opinion for the abolition of the death penalty.

In 1993, the head of the working group on drafting the new Criminal Code of the Republic of Belarus (hereinafter – CC) B. Padhrusha stressed, "We cannot ignore the international movement of the opponents of the death penalty and its abolition or non-application in practice in most countries. At the same time, judging by citizen letters and appeals it is impossible to make an unambiguous conclusion about the readiness of society to accept and support the idea of abolishing the death penalty. Keeping it in mind, the developers proposed to leave the death penalty, shooting at this stage, as an exceptional kind of penalty that would be used only for premeditated murder with aggravating circumstances. It applies to 11 types of crimes.[77]"

The Judge of the Supreme Court M. Hermianchuk pointed that a rapid and complete abolition of the death penalty couldn't do any good saying, "A gradual abolition of the death penalty as the level of civilization increases is much more reliable"[78].

The crucial debate about whether to include the provision on the death penalty in the Constitution of the Republic of Belarus took place on November 30, 1993 at the 13th session of the Supreme Council of the 12th Convocation. D. Bulakhau, Chairman of the Committee on Legislation, called to delete from the draft Constitution of the Republic, any mentions of the death penalty as one of the most barbaric methods of punishment and a rudiment of the medieval justice. His opinion was supported by the MPs A. Trusau, A. Dauliud, Z. Pazniak, V. Shaladonau, Ya. Tsumarau, V. Shachak, B. Makeichanka. The draft constitution was put for voting twice, both with and without provision on the death penalty. Only during the third voting, a constitutional majority, 243 MPs voted for keeping the provision for the death penalty in the Constitution.

As a result, Article 24 in the Constitution of the Republic of Belarus, adopted on March 15, 1994, sounded as follows: "Everyone has the right to life. The State protects human life from any illegal infringements. Until its abolition, the death penalty may be applied in accordance with the

77 Padhrusha V. Crime and Punishment // Sudovy Viesnik. 1994. No. 1. P. 42.

78 Hermianchuk N. Exceptional Measure / N. Hermianchuk // Sudovy Vesnik. 1994. No. 1. P. 42

law as an exceptional punishment for especially grave crimes and only in accordance with the verdict of the court"[79].

It should be noted that at that time analogical or similar wordings were contained in the constitutions of many post-Soviet states: Article 20 of the Constitution of the Russian Federation (1993), Article 15 of the Constitution of Kazakhstan (1995), Article 27 of the Azerbaijan Republic (1995) and others.

The range of crimes punished with death remained quite large in the CC of the Belarusian SSR of 1960. This penalty was envisaged for more than 30 kinds of crimes (including military ones), some of which weren't related to premeditated murder.

The active Criminal Code of the Republic of Belarus was adopted on July 9, 1999 and entered into force on January 1, 2001. It envisages the death penalty as an exceptional measure of punishment (Art. 59 of the Criminal Code) for certain, very serious crimes associated with the deliberate deprivation of life with aggravating circumstances.

Since July 9, 1999, amendments to the Criminal Code have extended the list of crimes punishable by death.

Researcher H. Babi believes that in order to compare the latest revision of the previous Criminal Code and the new Criminal Code in terms of humanness, one should look not at the total number of the articles that envisage the death penalty, but at the most frequently applied articles, i.e. Art. 100 of the CC of 1960 and Art. 139, part 2 of the CC of 1999[80]. Both these articles provide for the use of the death penalty for murder with aggravating circumstances. Art. 100 of the CC of 1960 contained eight paragraphs with aggravating circumstances, while Art. 139, Part 2 of the CC of 1999 contains as many as 16 paragraphs.

Describing the current system of punishment, Professor V. Khomich notes that a number of fundamental positions of the Criminal Code of 1999 is stricter compared to the previous code[81]. First of all, it manifested in a

[79] Constitution of the Republic of Belarus of 1994 (with amendments and supplements, adopted at the national referenda of November 24, 1996 and October 17, 2004). Minsk: Amalfieja, 2005.

[80] Abolition of the Death Penalty in Belarus. Collection of scientific articles. P. 47.

[81] Ibid. P. 32.

significant increase in the terms of the deprivation of liberty. The upper limit was increased to 25 years, and for cumulative offences and cumulative sentences, up to 30 years.

Currently, the death penalty can be applied for the following offences:

1) Art. 122 of the CC, part 2 – preparation and conduct of a war of aggression;

2) Art 124 of the CC, part 2 – murder of a representative of a foreign state or an international organization for the purpose of provoking international tension or war;

3) Art. 126 of the CC – an act of international terrorism;

4) Art. 127 of the CC – genocide;

5) Art. 128 of the CC – crimes against the security of mankind;

6) Art. 134 of the CC – the use of weapons of mass destruction;

7) Art. 135 of the CC, part 2 – violation of the laws and customs of war (wilful homicide);

8) Art. 139 of the CC, part 2 – murder;

9) Art. 289 of the CC, part 3 – an act of terrorism;

10) Art. 356 of the CC, part 2 – high treason accompanied by murder;

11) Art. 357 of the CC, part 3 – conspiracy or other acts committed to seize the state power;

12) Art. 359 of the CC – an act of terrorism against a public figure or a statesman;

13) Art. 360 of the CC, part 2 – diversion;

14) Art. 362 of the Criminal Code – the murder of a police officer.

It should be noted that none of these articles of the Criminal Code envisage the death penalty as the only possible punishment.

An alternative to the death penalty was first introduced by the Act of December 31, 1997, “On amendments and supplements to the Criminal, Criminal Procedure and Corrective Labour Codes of the Republic of Belarus”, according to which the Criminal Code of the Republic of Belarus of 1960 (now defunct), was supplied with a norm that established a new form of criminal punishment, life imprisonment.

According to Article 59 of the Criminal Code, the death penalty can be commuted to life imprisonment by means of pardoning.

According to Article 113 of the Constitution of the Republic of Belarus, cases are to be considered in courts collectively or, in cases prescribed by

law, individually by judges. Article 32 of the Criminal Process Code of the Republic of Belarus that came into force on January 1, 2001, provides for the collective consideration (by a judge and two people's assessors) at the court of the first instance of the cases related to the crimes that are punished with more than ten years in prison or with death, as well as the cases of minors.

According to Article 59 of the CC, part 2, the death penalty cannot be issued for women and men who committed their crimes before the age of eighteen years, or reached the age of 65 before sentencing.

The legal status of the persons sentenced to death is determined by the penal legislation. According to Article 174 of the Criminal Executive Code of the Republic of Belarus, those who have been sentenced to death are kept under heavy security in separate cells, perform the duties and have the rights established for the persons who are held in places of execution of remand in custody. No walks are provided for this category of persons. After the enforcement of the verdict, a person who has been sentenced to death, has the right to:

1) file a petition for clemency in conformity with the procedure established by the law (the procedure of filing an application for clemency and its consideration is regulated by the Regulation on the procedure of pardoning of convicts, approved by Presidential Decree No. 250 of December 3, 1994);

2) to meet with lawyers and other persons entitled to render legal assistance, without limitation of the number and duration of meetings;

3) to receive and send letters without restriction;

4) to have one short visit with close relatives every month;

5) to receive one parcel or transfer every three months in the order established by the administration of the correctional institution; to purchase foodstuffs and essentials every month in cashless transactions, using the money that are put on his personal account, including those received by mail transfer, within the limits established for the persons who are held in maximum security prisons;

6) to register the necessary civil, legal and family relations in accordance with the law;

7) to have meetings with a priest;

8) to receive necessary medical assistance.

A death verdict that has entered into force is executed after the receipt of the official report about the dismissal of the appeals that has been filed, in the supervisory order and the clemency petitions.

Article 176 of the Criminal Executive Code provides for suspension of the death penalty. Upon detecting signs of mental disorder in a convict, the administration of the institution organizes a medical examination commission consisting of three experts, about which an appropriate report is compiled. In the case of a mental illness that deprives the convict of the possibility to bear the responsibility for his actions, the death sentence is not executed and the medical report is sent to the court that issued the verdict. In this case the court suspends the execution of the death sentence and decides on the application of forced security measures and medical treatment to the prisoner in the manner prescribed by the Criminal Code.

In the case of the recovery of the convict, the question of applying the death penalty or its commuting to another penalty shall be decided by the court that delivered the sentence.

Those sentenced to death and their relatives have the right to appeal to the Human Rights Committee of the United Nations (UN HRC) after depleting remedies at the national level. Such appeals can be filed only by citizens of the countries that have ratified the Optional Protocol to the International Covenant on Civil and Political Rights, or the foreigners who reside on the territory of such countries. The Republic of Belarus ratified the Optional Protocol on December 30, 1992.

According to para. 92 of the rules of procedure, the UN HRC may, prior to forwarding its views on the communication to the State party concerned, inform that State of its Views as to whether interim measures may be desirable to avoid irreparable damage to the victim of the alleged violation. In doing so, the Committee shall inform the State party concerned that such expression of its views on Interim measures, does not imply a determination on the merits of the communication[82].

A new wave of discussions on the issue of the death penalty rose in 1996, when it was put to a consultative referendum. The question of the death penalty was of advisory nature. It sounded as follows: “Do you support the abolition of the death penalty in Belarus?” According to the estimates of the Central Election Commission, 17.93% voters voted for the abolishment, where 80.44% voted against it.

[82] Rules of procedure of the Human Rights Committee of the UN [Electronic resource]. Access regime:http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f3%2fREV.10&Lang=en

Life Sentencing as an Alternative to the Death Penalty

Life imprisonment is usually the maximum punishment for the most serious crimes in the countries that have abolished the death penalty. However, in different countries, life imprisonment is carried out in different ways and has different implications. In most countries, those who have been sentenced to life imprisonment can be released after a certain period of time, after which they are subjected to a constant supervision. The minimum terms to be served by those convicted before receiving parole differ depending on the country. In Germany, prisoners can be released after serving 15 years, in the UK – 14, in the US – 25 to 40 years depending on the state. The life penalty is not used in some countries. In particular, it is forbidden in Brazil, Venezuela, Spain, Colombia, Norway, Nicaragua, Portugal, Slovenia and Croatia. However, the absence of this kind of punishment in the legislation does not prevent prisoners from serving long prison sentences, and the actual terms of imprisonment in some countries may by far exceed the minimum terms that are provided for life imprisonment in other countries. For example, the maximum term in Spain can be up to 30 years[83].

International experts have developed 12 steps towards alternatives to the death penalty that correspond to the international human rights norms and standards[84]:

1. Discussion of alternative punishments by the stakeholders (the parliament, government, police, prosecutors, judiciary, lawyers, prison service, academics, civil society, victims and their families, the whole society). The ways of introducing alternatives that would be fair, proportionate and consistent with international norms of human rights, can be developed only through a discussion between the stakeholders.

2. Revision of the cases involving a sentence of death – the cases and circumstances of those sentenced to death should be subject to revision, which includes, among other factors, the number of years spent in detention awaiting execution, any questions of the fair investigation and the level of danger of the convicted person for society.

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83 Alternatives to Death Penalty: Problems of Life Imprisonment: Briefing 2007 (1) // Penal Reform International [Electronic resource]. Access regime: http://www.penalreform.org/wp-content/uploads/2013/06/brf-01-2007-life-imprisonment-ru_0.pdf.

84 Alternatives to Death Penalty: Information Package 2011 // Penal Reform International. p. 52-53

3. Ensuring that those sentenced to long imprisonment have definite terms and a real possibility of parole.

4. The possibility of release after the end of a certain period of imprisonment in the case of the sentence to life imprisonment.

5. A precise definition of the procedures for the release; presence of clearly defined procedures for the release in the legislation, their availability, compliance with international guarantees of due legal process, and the possibility of appeal and review.

6. Refusal from mandatory punishment in the form of life or long-term imprisonment; revision of policy in the field of the life sentence and prolonged imprisonment with the intention of the gradual abolition of mandatory penalties.

7. Non-application of the penalty in the form of life and long-term imprisonment to children, women, the elderly and people who have problems with physical and mental health.

8. Ensuring equal and humane treatment of all prisoners.

9. Ensuring that individual rehabilitation is the fundamental objective of the work of all prisoners.

10. Refusing solitary confinement for persons sentenced to life imprisonment, based solely on the sentence.

11. Perfect selection, training and supervision over the personnel working with prisoners serving life or long sentences.

12. Ensuring the use of independent monitoring mechanisms and control regarding the prisoners serving life or long sentences; states should sign, ratify and implement the Optional Protocol to the Convention against Torture, and establish an effective, independent national preventive mechanism in their countries.

In Belarus, an alternative to the death penalty was first introduced by the Act of December 31, 1997 titled, “On amendments and supplements to the Criminal, Criminal Procedure and Corrective Labour Codes of the Republic of Belarus”, according to which the Criminal Code of the Republic of Belarus was first supplied with a norm that envisaged a new type of criminal punishment, life sentence.

Article 58 of the Criminal Code stipulates:

1. It is admissible to use life sentence as an exceptional measure of punishment, alternative to the death penalty, for crimes associated with the deliberate deprivation of life with aggravating circumstances.

2. Life sentences cannot be imposed upon:
   a.) persons who have committed crimes under the age of 18 years;
   b.) women;
   c.) men who have reached the age of 65 years before sentencing
3. The persons who are sentenced for life serve their sentence in a penal colony of special regime or in prison.
4. After a person sentenced to life sentence or for whom the death penalty was commuted to life sentence, serves 20 years of imprisonment, the court, taking into account the behaviour of the prisoner, his state of health or age can replace the further serving of the life sentence with imprisonment for a fixed term, but not more than five years."

According to the Criminal Executive Code of the Republic of Belarus, those sentenced to life imprisonment or whose death penalty was commuted to life imprisonment are to serve their sentence in a penal colony of special regime or in prison.

There they are held separately from other convicts in cells, and not more than two persons in one cell. Such convicts also wear special clothes. The work of such convicts is organized with observance of the requirements of holding prisoners in their cells. Their transfer to the usual accommodations of the penal colony of special regime is possible after ten years of serving the sentence if the convict receives no penalties for violations of the established order and demonstrates a conscientious attitude to work. In this case the conditions of his imprisonment can be improved by allowing him more frequent visits and parcels from relatives. Malignant offenders are transferred to cell-type prison.

Those who are sentenced to life imprisonment have the right to:
1) spend the amount of money of up to three base units from their personal accounts on buying food and essentials
2) have two short visits during a year
3) receive one parcel or transfer and two postal wrappers or two small packets a year
4) have daily walks for thirty minutes

Those who are sentenced to life imprisonment have no right to receive education.

Despite the institutionalized alternative, according to the Ministry of Justice of Belarus, 245 people were sentenced to death from 1994 to 2014.

Since 1995, only one individual sentenced to death has been pardoned. According to the Ministry of the Interior, as of 2013 Belarus has had 140 persons who have been sentenced to life imprisonment. More than 80 of them are serving their sentences in prison No. 8 in Žodzina.

In 2014, the newspaper "Na strazhe" posted an article devoted to the conditions of detention of these prisoners.

"The cells are equipped with a socket, a radio receiving station and a call button. Every 15 minutes, the guard looks in the peep-hole. It is prohibited to move in the cell after lights out. One can only get up to relieve oneself. The lighting at night is weak, but is enough for the staff to see whether the prisoners sleep. Those who violate the prison regime can be placed in the punishment cell for up to ten days."[85].

The prison regime is extremely tough, notes the article. "Outside of the residential sector, the convicts with the mark "LI" (life imprisonment) on their robes are allowed to move in the bent position, the distance between their feet must exceed the width of the shoulders, and the handcuffed hands must be raised high with splayed fingers. It is prohibited to raise the head or unbend, all commands are to be executed immediately, and each convict is accompanied by two guards with a dog. Prisoners have a 30-minute walk every day. The walking yard is also a cell, but with bars instead of the ceiling."

Exceptional penalties (imposed).
Form 10 of statistical reporting (DP – the death penalty, LI – the life imprisonment)

Year	DP	LI	Year	DP	LI
1991	21		2003	4	12
1992	24		2004	2	12
1993	20		2005	2	8
1994	25		2006	9	7
1995	37		2007	4	7
1996	29		2008	2	5

85 Budkevich V. In Belarus, about 140 people have been sentenced to life imprisonment // BelaPAN [Electronic resource]. Access regime: http://news.tut.by/society/334150.html.

Year	DP	LI	Year	DP	LI
1997	46		2009	2	5
1998	47	3	2010	2	2
1999	13	29	2011	3	4
2000	4	18	2012	–	4
2001	7	11	2013	2	2
2002	4	21	2014	2	7
Total for 10 years (1991-2001)	266	50	Total for 10 years (1991-2001)	38	90
Total since 1991	403	157			

Professor V. Khomich believes that the life sentence as an alternative to the death penalty could be accepted only in terms of reducing the overall use of imprisonment. Meanwhile, the level of application of imprisonment in Belarus remains high, more than 30%. "The task was to use imprisonment in a balanced manner as an exceptional punishment", points the scientist[86].

According to Stanislau Daniliuk, the Judge of the Constitutional Court of Belarus, the rejection of the practice of the death penalty in Belarus should be combined with the process of eliminating the shortcomings of the legislation that will eventually lead to a revision of the conditions of the life imprisonment.

Part 4 of Art. 58 of the Criminal Code provides for the possibility of revising the punishment of the persons who have been sentenced to the life imprisonment. After 20 years of imprisonment the court, depending on the prisoner's behaviour, age, and state of health, can replace the life sentence with up to five years of imprisonment. Life sentence has been applied in the country since 1997 and the first person was sentenced to life imprisonment in 1998. Thus, starting from 2018 there will be the first chance of the precedent when such persons will be released.

According to Judge S. Daniliuk, good behaviour of a person who has been sentenced to life imprisonment doesn't guarantee his correction, as well as

86 Abolition of the Death Penalty in the Republic of Belarus: Collection of Scientific Articles. P. 28.

that the age and state of health do not indicate that the person has realized the gravity of the offence. According to the law, it is even impossible to establish preventive supervision over the people who get released in such a way. “All these shortcomings of the legal regulation need to be eliminated if we want to abolish the death penalty,” believes the judge[87].

Thereby, the confinement of the death penalty only to cases of crimes related to the murder of a person with aggravating circumstances, and the possibility to use a life sentence instead of the death penalty in such cases, creates a favourable basis for the formation of the prerequisites in the public opinion for the complete replacement of the death penalty with life sentencing.

87 Shcherbakov Z. Judge: We need to review the conditions of life imprisonment before abolishing the death penalty // BelaPAN [Electronic resource]. Access regime: http://naviny.by/rubrics/society/2014/11/13/ic_news_116_448808/print/.

Cases of the Persons who were Sentenced to Death

Anton Bandarenka

Anton Bandarenka was sentenced to death in June 1998 for a murder and other crimes he had committed at the age of 19 years.

According to the court, Bandarenka illegally got into a private house, accompanied by Vaskaboinikau (who was under age), and, threatening them with a knife, forced the owners of the home, an elderly woman and her grandson, to open the safe, from where he took valuables. His associate told Bandarenka that one of the eyewitnesses, the boy Kurylenkau, could inform the police about the crime, and proposed to kill him. Both criminals stabbed the boy with knives. Moreover, Vaskaboinikau pushed the elderly woman down the stairs and stabbed her with knife several times, from which she died on the spot.

Bandarenka was sentenced to death.

The mother of Anton Bandarenka, Natallia Shedzko, appealed to Belarusian and international human rights activists. She visited the prison where her son was held every day in order to see whether he was still alive. She was not informed about the date of his execution until the last day. Natallia held a picket in front of the Presidential Administration together with a friend of hers to get the sentence to her son commuted. The women were detained by the police.

In January 1999, Anton Bandarenka's lawyer appealed to the United Nations Human Rights Committee, claiming a violation of the International Covenant on Civil and Political Rights.

According to the results of the forensic examination, Kurylenkau died from multiple wounds. As claimed by the complainant, during the trial it was proven that Bandarenka had stabbed the victim only twice, which, according to the lawyer, could not be the cause of his death. What concerns the murder of Kurylenkau's grandmother, the defender believes that there was evidence of Bandarenka's innocence. At the trial, Vaskaboinikau confessed having given false testimonies against his associate during the preliminary investigation. Another argument drawn on the appeal was that

during the trial the judge of the Supreme Court refused to consider the knife as evidence that Bandarenka was not involved in the killings.

In fact, the sentence was executed a year after its delivery by the Supreme Court. The petition for clemency was rejected.

The United Nations Human Rights Committee managed to consider the case only in October 1999, when the convicted person had already been punished. In the decision, the Committee requested the authorities to tell the mother of Anton Bandarenka the place of his burial, pay her a compensation for the suffering, and refrain from such violations in the future.

However, Anton Bandarenka's mother still does not know where her son was buried and the Belarusian legislation has not been amended itself in accordance with the decision of the Committee.

Andrei Zhuk

Andrei Zhuk was sentenced to death on July 17, 2009 by the Minsk Regional Court.

25-year-old Andrei, with two accomplices, organized an attack on a car that was carrying the wages for employees of an agricultural farm. The offenders not only took the money, but also killed the man and woman who were carrying it.

During the arrest, Andrei Zhuk was under the influence of drugs, but was not sent for a medical examination. Instead, his interrogation continued at night. Evidence was obtained in violation of the rights of the suspect, and therefore could not be considered by the court.

The complaint that was filed by Zhuk's mother to the United Nations Human Rights Committee points at a violation of the presumption of innocence in his case, which during his last plea the defendant was kept in a cage, and handcuffed. Human rights activists and lawyers register similar violations in many criminal cases that are considered by Belarusian courts. The then Interior Minister Navumau called criminals both Zhuk and other defendants in the case long before the delivery of the verdict.

Andrei Zhuk sent letters to human rights defenders. Thanks to him we learned about another man who had been sentenced to death, illiterate Vasil Yuzepchuk, who was held in the same cell.

Andrei's mother and Andrei himself addressed the president for clemency. However, in March 2010 Andrei Zhuk was executed.

Vasil Yuzepchuk

June 29, 2009 34-year-old Vasil Yuzepchuk was convicted of the murders of elderly women, as well as theft and robbery, and was sentenced to death.

He had been held in a remand prison for 15 months before his case was considered in court. The complaint that was filed by Yuzepchuk's representative with the United Nations Human Rights Committee noted that he had been regularly subjected to physical violence aimed at extorting the needed testimonies. He was also forced to take unknown pills and alcohol. Meanwhile, the court was satisfied with the conclusions of the Baranavičy prison that Vasil had self-inflicted bodily injuries during his stay in custody.

What is important, Yuzepchuk was illiterate and therefore could not fully familiarize with the minutes of his testimonies on his own. His guilt is proven only by his testimonies during the preliminary investigation, as well as the testimonies of another participant in the case that were also obtained through torture.

Vasil Yuzepchuk was executed in March 2010.

Andrei Burdyka and Aleh Hryshkautsou

On May 14, 2010 Hrodna Regional Court sentenced to death 28-year-old Andrei Burdyka. He was convicted of murder with aggravating circumstances, as well as kidnapping, robbery and attempted theft.

According to the Court, on October 14, 2009 the first-responders who were called to an apartment because of a fire, found at the scene the corpses of the owner, his daughter-in-law and their friend, with multiple wounds. Burdyka was detained in the apartment of his acquaintance Aleh Hryshkavets who also became a defendant in the case.

After the Supreme Court rejected Burdyka's appeal against the death sentence and the president refused to pardon him, the defendant's representative appealed to the UN Human Rights Committee on his behalf. The complaint stated that Burdyka had been subjected to physical

violence with the aim to extort the needed testimonies and deprived of the right to defence during the first stages of the investigation. Five months passed before the beginning of the court proceedings, which is also a violation of international norms. The same problems were faced by Aleh Hryshkautsou.

Andrei Burdyka and Aleh Hryshkautsou were executed on July 19, 2011.

Ihar Mialik

On September 14, 2010 Mahilioŭ Regional Court sentenced to death Ihar Mialik for a series of murders, robberies and thefts he had committed as a member of a criminal group, as well as for illegal actions with firearms and ammunition.

Other defendants in the case included the founder of the association of jiu-jitsu and self-defence, Aliaksandr Kozyrau and one of its members, Aliaksandr Sychou. Kozyrau suddenly committed suicide in jail in Mahilioŭ. Sychou was sentenced to life imprisonment, Mialik, was sentenced to death.

In his appeal against the verdict Ihar Mialik reported the use of torture against him, saying that the beating started immediately after his detention. It was registered by medics and was also confirmed by Kozyrau and Sychou, who were also beaten by the police. However, as it often happens in such cases, the suspect filed no appeals, fearing that it would further deteriorate his situation.

Mialik also noted that the court did not take into account his remorse for his crimes, cooperation with the investigation, and the lack of self-serving motive. According to him, he committed the crime after being convinced by Kozyrau that the activities of the association required money. Ihar Mialik engaged in martial arts under the direction of Kozyrau for 12 years, and thought that it was right to agree with all demands of his coach. As it is known from Sychou's testimonies, Kozyrau twice tried to shoot Mialik for refusals to obey his orders.

Ihar Mialik admitted that he was a criminal, but asked to commute the death penalty to life imprisonment. The court rejected his request. He was executed in 2011.

Part 3.
Interviews, Essays

Aleh Alkayeu:
A Murder is Always a Murder, even if it is Sanctioned by the Law

In April 2012, during the filming of the documentary "Departed on Sentence", activists of the campaign "Human Rights Defenders against the Death Penalty", went to Berlin to visit Aleh Alkayeu, the former head of remand prison No. 1 in Minsk, and author of the book "Firing Squad". About 150 death verdicts were executed under his leadership.

A part of the interviews with Aleh Alkayeu were included in the films "Departed on Sentence" (2012) and "Six Arguments against Death Penalty" (2013-2015). Here is the full text of the conversation.

We met with Aleh Alkayeu in the "Russian district" in Berlin, in the building of a shopping centre, in a salon that sold kitchen furniture. This is the place where the former chief of remand prison No. 1 has been working after disclosing the secret of the use of the firing gun in the extrajudicial executions of government opponents leaving Minsk. We were astonished at the precision with which Aleh Alkayeu was answering all the questions during our conversation.

– *What kind of place is the shopping centre where we are now?*

– This is a usual mall. The place where we are now is not fully commercial – nothing is sold here, kitchen furniture and other items are renovated here on people's orders. This centre consults people concerning the purchase of tickets and spa services, cell phones, tickets and season tickets for concerts. All of it is done in Russian, and all this is a success in the area, otherwise they would not have worked. The state doesn't support your business here, and one works the way one can organize their work. Russian-speaking people live here. I even saw Germans who had returned to their motherland switching to Russian while talking between themselves, which they consider their mother tongue, as they have spoken it since childhood.

They know the German language, but it is easier for them to articulate their thoughts in Russian. Why complicate things? They speak German with Germans, Russian with Russians, English with the British. This is one of the conditions herein... I am not like them so far... My work is connected with travelling, and my labour tool is the driving wheel. The traffic rules are the same for everyone.

– Who do you work for?

– I work as a driver. Right now we are sitting, but if we receive an order to bring something, I will get into the car and drive there... I also work as a driver at other companies. However, I don't have work all the time, that's why I appoint meetings here, to be at hand. Our bosses are far from the struggle in Belarus, but they count with it.

– Why did you choose to live in Berlin?

– I did not choose Berlin. I had a vacation in Berlin, I even keep the vacation leave. It is just a coincidence that I came here. My relatives live here. It happened so that I was advised against returning, though I wanted to return. I don't feel guilty. No criminal case has been brought against me. I didn't commit any crimes, I didn't take bribes, I don't have a three-storey villa. I could go back even now, and I don't even know what our police and prosecutor's office would do. It is very difficult to imprison me, as a question will immediately appear asking about what I got imprisoned for. They pretend they haven't read my book. It needs to be read, and if they read it they will have to build a huge prisoners' dock. Maybe I will also get there, but, in any case, at the very end. And there will be such a huge dock by then...for this time (more than ten years), the number of the people who are involved in these crimes has increased by at least 50. These are the duty officials whose official position obliged and obliges them to disclose crimes, whereas they don't do it. There is an article about office crimes in the Criminal Code, where everything is stated as such: a state official who doesn't implement his duties is a criminal.

This applies to everyone, from the president to an investigator. You came to work, there is an undisclosed case in your safe. Everyone knows that the missing Zakharanka is not missing, but was murdered, that Zavadski, Hanchar and Krasouski were kidnapped. There is a circle of suspects, so work with them! These figures were established and defined long ago. However, it would be easier for them to get rid of me than to meet with me, as I will surely ask these questions, and who needs this? No one does. I can create

problems for them. I can arrive in Minsk, sit down opposite the Ministry of Internal Affairs and wait to be arrested...there is such a variant, because I am an indirect accomplice. The people were killed from the firearms that were received from me. Yes, I am guilty…I issued the gun without thinking, and people were killed from it. There is my guilt in it, and it can be used as the starting point.

– *Why was it necessary to use this very gun for extrajudicial executions?*

– This question has been asked to me, m*any times...*

– It was also asked by the relatives of the missing. I agree that one doesn't need a special gun to kill someone, it can be done with a stick, a knife or anything at all, even with one's hands, or you can pour a bucket of water into someone. Most probably, in this case the gun acquires a ritual meaning. The pomp is necessary for everything: a person is not just killed, but is punished. Firearms serve as moral justification for the killer. They had an equipoise of doubt and understood that all this was illegal. I don't think they are thugs after all. That's why I have such an explanation. It wasn't because that gun shoots quietly – there are enough such guns. Moreover, they didn't have to worry about the noise in the conditions in which this was done.

I have been asked this question repeatedly, and it sounded like a reproach, as if the gun was just "Alkayeu's fantasy". But it is the issuance of the firearms that allowed me to make conclusions about the existence of a secret group that used it for certain aims. Later on, having compared the dates, persons and other circumstances, I concluded that the gun had been used to kill our opposition politicians. I wrote a book about it. I have developed this version on a much deeper level since then. If I was given one day now, the case would be disclosed. I would invite some people for purely technical design, and the process would begin. In a day, charges could be given to the whole group of perpetrators and those who covered them. I am ready to do it now, but the authorities of our state are not ready for it. By the way, I appealed to them on this occasion, but I'm not a politician. I don't want to take power. My task was to find the truth about these crimes, and I managed to do many things. Many people ask me to publish my findings and I have already had my fingers burnt on it, as it makes no sense. The sensation will rattle for two or three days on TV, and then a skyscraper will collapse somewhere, and everything will be forgotten. Therefore, each line will be put right in the case. However, I don't make a secret of my findings. My weapon is doing everything publicly. I have ideas and present them to everyone. It is still

allowed to fight crime, as any citizen is allowed to pull a criminal by the ear and bring him to the prosecutor's office or police saying, here is a murderer, please, draw up the appropriate documents. There are no secrets, my actions are absolutely open. We won't see them making a full confession, though they are ready to do it, depending on who will ask for it. They are living in fear, I know it for sure. Thus, everything is ready from my side.

– *Journalist Ales Daschynski met with Yury Zakharenka when the latter was a minister, and interviewed him on the death penalty for the newspaper "Svaboda" shortly before the kidnapping. Zakharanka came to the editorial office of the newspaper on Ivanaŭjskaja Street and told the journalist about the death penalty, but didn't tell where the bodies of the executed were buried. He was asked, "You don't disclose these places either, though you were the first to lift the veil of secrecy from the death penalty. What is the reason? Is the place of their burial such a terrible secret?"*

– It is a secret. First of all, it is stated in the law, and I am, after all, a law-abiding person. Maybe I would not even speak on this topic if my former brass, represented by the Minister, didn't allow the publication of the minutes of my interrogation in the press. I couldn't speak, but they freed me from that oath. However, I have never come beyond the limits of the testimonies I had given during the interrogation. I can confirm everything one could read there. The places of burial, the place of the execution and the names of the executioners are a secret. These are the three things I have never told and will never tell anyone. It is really a secret. Why should I excite the public and set other officers up. It is impossible. Our newspapers have written all the rest about me. They wrote that I am the head of the group and that I shot many people. However, there is a mistake…I shot a few more. At the time of my interrogation on November 22-23 I called the number 134, but in several days there were more shootings, that's why the total number is about 150. I don't remember for sure now, but I remember that we continued working. That's all I can add. Everything else is already written there. Who needs the place of the burial? People will come with shovels to dig, and what will they find there? It is indecent and inhuman. I don't see much sense in honouring the memory of the executed, they committed terrible crimes. There is no heroism in it. And the laws are adopted by the Parliament. If they adopt a law according to which the bodies are to be issued to the relatives, they will be issued. There are MPs in the Parliament, and I have stated it many times, that they need to realize that we have to implement whatever they adopt. That's why I am not the one to be asked this question. The Code reads that the place

of burial is not reported, and that the body is not to be issued. What can I say about this? It was this way in the old code and it remains so in the new one. It needed to be changed. There was a possibility to amend this article during the times of Shushkevich and Hryb, or at least raise this question, and there would be no such article. It was possible at that time.

Now it is a tool of personal power. By the way, if our authorities suddenly abolish the death penalty, really abolish it, and not just introduce a moratorium (as a moratorium can be introduced one day and lifted the other, it is not serious), it will signal that the President is ready to resign or give up power to someone else. I think that this will be the message. But I cannot decide this question for the Parliament. However, I have already said that there must be an established initiative group to collect signatures for the abolition of the death penalty. How many signatures are required according to the Constitution? 100,000? These signatures need to be passed to the Parliament, and let our legislators think then. There is no need for anything else. The National Assembly has the right to amend articles in laws. Let them take this responsibility and say their “yes” or “no”. However, they will have to do it. At present, however, there is nothing except for talks and calls. I especially like reading this “we demand!” What do you demand? And from whom? From the authorities? But the authorities range from a police sergeant to the President. If the mechanism is spelled out in the Constitution, you need to start from there, from collecting signatures. MPs will not do it, but you need to make them do it. Let each of them take this sin. The MPs need to be disturbed. We all understand that they are playing into the hands of the authorities. However, if you approach each of them somewhat later and ask why it was so, they will answer that they didn’t know anything and sat there solving the issues with milk yields and potato crops, how to dress, boot and feed the people, and so on and so forth... There is a juridical group there. All of them need to be put before this task, and to let each of them personally take over the responsibility. Then it will be clear that everyone needs to define and voice their position. Then afterwards you can come up to each of them and ask, “Hey, you received an inquiry from an elector, how did you answer it?” This will become a reason for a serious talk with him. Without it, he can always say, “I haven’t read the book, I haven’t seen your film, I don’t know anything.”

What did the activists in Poland do? They translated my book into Polish and sent a copy to each deputy of the Sejm to read. Some of them threw it away at once, others could have used it as a stand for a teapot, but some

of them read it, and a positive opinion about the book was formed. They did read it, you see? Everyone has got this book and they cannot say, “I don’t know what is going on in Belarus”. There are receipts that confirm sending the books by registered mail. There is a reason to talk with them. But there are no such reasons in present Belarus. You can ask someone and he may answer, “I don’t know who Zakharanka is. And who is that Hanchar?” And they really may not know about it. But they must know. I don’t say that each of them shall be sent the book. By the way, the book was sent personally to Vasilevich. I know it. But he pretended that he hadn’t read it. We need to work for the future, when the time will come to ask, “You were a prosecutor, why didn’t you disclose the murder of Zakharanka?” (And it is not a mystery. It is well-known who killed him and where.) He may say, “I didn’t know, guys, ask the criminal investigation department”. Okay, then the criminal investigation department will get the same question. When the question concerns the criminal past of our authorities, there is nothing more criminal than that. In other cases there are rapid detentions and convictions, but in any case, these cases passed the trial. The President and the prosecutor always have an explanation, which is that the judge considered the case, deal with the judge. Extrajudicial killings hang on our authorities like a heavy burden. This is their only weak point. A large group of people needs to purposefully work on it, at least asking questions, starting from the local police inspector in the area where Zakharanka disappeared. He will then ask his boss,

– Is he missing?

– Yes, he is.

– Let us search for him then.

The case is lying somewhere, we all understand it. What investigative actions are held on it? It is both a journalistic and a human rights question. If you always hit in one point, there will surely be a result. They will get thoroughly disturbed. What is investigation? It consists of small details. You see one thing, hear another one somewhere. I see and hear them even being a thousand kilometres away from Belarus, whereas those who are there, nearby, don’t see or hear anything. And many people have been involved in this case. We needn’t give them the straw at which they will then hold, saying they didn’t know anything about it. They know everything well enough. They know perfectly well who killed Zakharanka, when and for what. The paradox of the situation is that when one gets on the “path of war”, he has better chances of not losing his life. And this is the only thing that can influence the authorities. Now they

strongly condemn torture, but eventually it all will end on some ensign. I have talked a lot about it in this room...

After World War II, the Allies scraped around the archives and did not find any evidence that Hitler had signed any orders regarding the destruction of Jews. Nothing was found. Either there were no such orders or they were destroyed. Jews were smart enough to raise this issue. Others could say, well, they were killed, let it be. But they tried to dig out who killed people for being Jews. There could be no Hitler's signature at all, but, in any case, the system that he had created did work, and every official could make "inventions" depending on his education, unreasonableness and bloodlust. We won't find a signature either, but there is a system that permits such things. The phrase "I do not want these people to make problems for me", can be explained in many different ways. They were understood in such a way that the people were killed. They weren't tried, nobody looked for crimes on their part, or at least violations of the ordinary morals and damaging information.

– But was it an imitation of the death penalty?

– I concluded this because of the gun. What is an imitation? What is a punishment? Do you think they are some special rituals?

– For example, saying "In the name of the Republic of Belarus …"

– I wasn't there, but I don't think any high-sounding words were said. They well might be said, but not necessarily, it wasn't easier to die if they weren't said. And it is not important what is said for a person who is going to die. It could be important for the killers so that they could think they weren't committing a murder, but implementing a verdict. That's why it could be said, but they will say it themselves, let's not get ahead of ourselves. They will say it themselves, and some of them are ready to do it, but nobody asks them.

– As you've said in an earlier interview, depriving another person of life is always hugely stressful, even if it's done according to the law.

– How high is the stress level? I cannot determine it according to any scale, but I can tell you one thing. An executor died during the period of my exile. He died at a fairly young age, before 50, and the squad leaders, well there are some who live long, and others who die young. Maybe it's because of stress, maybe there are other circumstances. I don't connect it specifically to the executions, as the squad leaders don't take part in them, but are present at them and give orders, which is also quite a great responsibility. You are seeing a leader of a firing squad yourself now, and he is alive.

– In 1998, the Human Rights Center "Viasna" got a letter from Ivan Famin from the death row in prison No. 1 in Minsk.

– I remember him. By the way, he was shot for someone else's crimes... they drowned somebody in a lake. A taxi driver. (The activist pulls out and displays the original letters from death row, written in 1998, and starts reading them aloud).

– Yes, Ivan Famin, convicted of a brutal murder of a taxi driver, which he did not actually commit. He also describes in detail the conditions of detention on death row saying, "There is real hell here...we are beaten for literally everything...you are beaten for writing an application to the medical department or calling a priest for confession. They also beat us if they are in a bad mood."

– You may stop reading. I'll tell you. This guy, I remember him well. He was young. He was in a gang with fellows who were older than him, flattered by the attention to his person. He, being the youngest of all, decided to take the blame for it. And his gang told him, "It's alright, you are young, they'll give you a "ten" and we'll be bringing you parcels. You'll be an honoured man in prison." He was sentenced to shooting. But he had already incriminated himself, had given the testimony. Everything had been fixed juridically. He took the heat off them all. Does he write about his accomplices in the letter?

– He writes about life on death row saying, "We are beaten be everyone in shifts...there is a shift, during which the guards hit you in the kidneys, in the lungs, liver and head. This is the shift of the guard called Žora".

– You may not read it, as much is written there. I have received numerous personal complaints. I remember that the Supreme Court abolished the sentence for one of them and he was taken to a high-security colony.

– Pratsirayeu?

– No, not Pratsirayeu. Pratsirayeu is "Director", pardoned by the President. There was also another one, the Supreme Court reviewed his conviction. He wrote such a complaint that I almost cried while reading it. I will explain to you now so that you can understand…the presence of the head is OBLIGATORY for opening the doors of a death row cell. The cell will not be opened without his order. No one was beaten in the presence of the head. And the head was me. One needs the order of the head to lead a convict out of the cell. In all other cases, only the food tray on the door is

opened. One cannot be beaten or killed through it. The only other case is that a cell is opened during technical examination. The guards get in with batons and wooden hammers, and this was done every day from 1 to 2 p.m. on the order of the head. The head wasn't present there, but his deputy was. I also cannot rule out that somebody could be kicked in the ass to speed him up, but beating...

– Yes, he further writes about the wooden hammers and batons.

– Well, you know, if they were beaten every day, as he writes, they would have been killed long before the execution.

– He even writes that, "people go to the shooting with stiff legs".

– Did he see how people go for the shooting? They all write that they did at the request of the inmates. It wasn't a bowl of cherries to sit there, they were living in a constant fear. Perhaps there is a shred of truth that some of them could have been kicked in the ass with a hammer or a baton to make them get out of the cell. But, how should I say it... I read these complaints, many of them. I came and talked with them. The prisoners immediately refused from their words, "No, sir, I was made to write it, I was told to do it because I was so good in writing." The only thing I know about Famin is that he really was in that gang but didn't kill the man himself. The murder was committed by others, and he took the blame for this "heroic deed". He understood that he couldn't write about the crime, as he had incriminated himself, but he needed to express some offence. That's why they write, hoping that somebody will come from the UN and will start discriminating…it was fashionable then...

– Here he also appeals to the Council of Europe.

– Yes, asking to get the execution of the suspended, and so on. In fact, I read all this, these letters couldn't be sent without going through me. I never hid them. Let them write, and do as they please.

– But how did the letters get out of the prison? There are no censors or seals, nothing... September 18, 1998, appeal to the Human Rights Center "Viasna-96".

– There is no way it could go out except through the guards. They could pass the letter. Nothing can get out of there, people only get out of there when they are dead. Nobody can guarantee that it is his letter.

– Couldn't it be passed by the so-called "prison mail"?

– There is no “prison mail” there. Such things are excluded.

– *Is the man who was pardoned by the president Siarhei Pratsirayeu?*

– Siarhei Pratsirayeu is the Director. That’s his nickname. I have forgotten, but you reminded me. I don’t know why he was called the Director.

(After a break, Aleh Alkayeu starts speaking first).

– The death penalty is a tool for maintaining a personal authoritarian rule, in our case, Presidential rule. Ministers and others will oppose the abolition of the death penalty, because they are accessible to physical violence on the part of the disgruntled, due to the fact that they do not have strong personal protection. They are accessible for the abused and oppressed. I’ll delve into history on the matter a little bit. If we look into our past, the past of the Russian Empire, we’ll see that it wasn’t shattered the most by the war, but by the terrorist acts that were carried out, as a rule, by social revolutionaries against the heads of the police, the gendarmerie, and even the mayor. No one wanted to occupy those positions, people were that much afraid of the attacks. And what is a man who is afraid and who becomes the head of a punitive body having this feeling of fear? It is the beginning of an end, he starts refusing himself from certain actions, showing loyalty, flirting and adapting in certain instances. That’s how the state was shattered. I understand that dictatorial authorities stay at power thanks to the penal system. I knew it well enough, that’s what I studied for a long time, many years ago. We were hammered in our heads that the people who committed crimes were already “enemies of the people” regardless of the crime, it didn’t matter whether a person had taken a spike from a field or robbed a bank. If you have taken someone’s property, you were an “enemy of the people”, and there can’t be any mercy or compromise. This Gulag system passed on to present times, and it is very difficult to eradicate it, the more that there is corresponding propaganda.

However, I’ve wandered from my point a bit. The death penalty is the guarantor of the security of state officials. In the old Criminal Code, when I was studying, there was one non-alternative penalty for the murder of a police officer. This was punished by shooting, not 15 years or anything of that kind. This provision was the guarantee of the security of policemen. That’s why today the death penalty is the guarantee of the security of the officials. They have no guard, but the law is on their side. They cannot refuse the death penalty, as they violate the laws themselves and therefore get exposed to retaliation. It is good that Belarus is such a tolerant country

where the consequences of the juridical lawlessness are confined to the emotional level. People just come to Brussels, cry and complain, and that's that. If there is somewhere where people are more temperamental, there is "an eye for an eye, a tooth for a tooth", many officials would at least forfeit their health. And they do understand it better. If one day the authorities suddenly come with the initiative to abolish the death penalty it will be a signal of their readiness to yield their power, not to get into these millstones.

Now, let's touch upon the question of the executions and the attitude of society to them. Why did all these questions about punishment of the terrorists [of the Minsk metro] arise? There is no confidence in the judicial system of Belarus. People don't trust it. The crime is too extraordinary to be a sign of protest for two ordinary guys who tried to show their importance and assert themselves in such a way. The investigation, of course, didn't give an exhaustive answer to this question. This raised doubts. I don't doubt that the crime was committed by them, and am criticized for it. I believe that this was proven by the case materials as no one has proved the contrary. The contrary can be proven only if we are shown who really did it. Please. Search and find the terrorist. My second argument is that they had the opportunity to say something at the trial, and not just mumble something unintelligible. To make a statement. I was asked, "Why had he behaved inappropriately?" "Should he have danced?", I answered. Silence is a sign of guilt. I can say it, as I saw a lot of them. He had nothing to say, absolutely nothing. I used to ask criminals: "Have you done it?" Of course, most of them kept denying it until the end. They didn't deny the very fact of the crime, but tried to reduce the scope of their guilt, trying to justify their deeds. I often encountered such behaviour.

What I'd say in regards to the investigation of the case of Kanavalau and Kavaliou is that its these opportunities haven't been used to their whole extent. That's why there remain doubts whether any third parties were involved in this crime. And if there were such third parties, who are they? Why was Minsk and this metro chosen? I still haven't heard an answer. This is my first question, why Minsk? Could anyone prompt them? This "someone" is hanging in the air. Why am I putting out this question? Any transportation of explosives is associated with certain risks, as one can be disclosed or detained somewhere. This is not a loaf of bread, nor a box of vodka. They took that risk. There is a number of other doubtful moments, too. However, there is a verdict. If the judges issued an unjust verdict, they won't get away with it, even if evidence was destroyed. There is a criminal case that will be stored for some 70-75

years, if I am not mistaken. There are investigators who investigated the case and will also live long enough. Therefore, a chance to find the truth about the involvement of other persons in this case remains. As for what concerns Kavaliou, his punishment was disproportional to his guilt. I can also state that. The death penalty, after all, is a far too heavy punishment for knowing about a planned crime. He wasn't a direct participant. He could be punished, but it should not have been with a shooting.

– How long did the time between the issuance of a death sentence and its execution last in your practice? A year? Two?

– I remember that it lasted 18 months in the case of a group of individuals, as each of them filed a supervisory appeal to the Supreme Court and then a petition to the Commission on Pardons. I don't know about right now, but in my practice a sentence wasn't executed earlier than six months after its issuance. The main document for the execution of the sentence is the denial of clemency, signed by the president. The procedure of execution starts from this very moment, and the period from the issuance of a sentence to the receipt of this denial was never shorter than six months. At that time, the Commission on Pardons met on a quarterly basis. They considered collectively all the cases that had been accumulated by the time of their meeting. They didn't consider just cases of death convicts. Those who are convicted for long terms and believe that they have received an unfair sentence, also appeal there.

But the leader of the firing squad has a month after the president considers the case and issues his resolution. And this entire month belongs to the head of the squad, it's up for him to choose the date and the place. There is just one method, shooting. Why were the terrorists executed so quickly? Most probably, the present head of the squad received an appropriate order.

– Ulad Kavaliou's mother says that during the last meeting with her son before his execution, she had a feeling that he knew something and wanted to tell that he knew what decision had been taken. Could he know it?

– No, he could not know, but he could feel it.

– Could he feel it by the attitude towards himself? The attitude probably changes. Do prison staff know about the decision?

– One can guess by the attitude. If he was told, "Today you are going to be transferred to the remand prison in Valadarski Street", it, of course,

signalled that he would be executed. This is enough, as they discern the slightest noises and know who and what is coming even by the squeaking of heels. They know whether it is the librarian, the guard or the prison head. Their perception gets more intense. That's why if someone carelessly utters a word...maybe, Kavaliou knew that a decision on his case had been taken already, but he didn't know what it was. Decisions on clemency and clemency denial, lay on the same table. However, as a rule, a pardon is announced without leading the prisoner out of the cell. But he can also be led out for it. He can be just shown the paper and told to sign that he familiarized with it...there is also the practice when the Supreme Court reviews the case and changes the verdict. A higher court can commute the sentence. There were cases when the Supreme Court abolished a death sentence and replaced it with a life sentence. Such things happened, though not quite often. Then the guard comes to the cell and passes the document through the food tray. Of course, this was a cause for joy. After this, such prisoners were transferred to other cells, for those sentenced for life. There were such moments. When a pardon was announced, it seemed to me, an officer came from Prosecutor's Office. I don't remember who announced the presidential decree from the pardon for Pratsirayeu. But of course, he wasn't led out to the room for execution. Each convict hopes to be announced a pardon until the last minute. Hope is a great thing.

– *All senses of those sentenced to death get sharper. Is it also true for executioners? Or was it that just you felt their state in such a way?*

– Everyone passes this barrier. Later I asked the staff who attended the executions. All of them felt that stressful situation almost identically. This is a very unusual phenomenon, the emotional state during the first time is the same for everyone, and it's a delayed perception of time. I spoke with the staff about it. Time slows down to the point that you can see clearly how the gun works, as in slow motion. I ask others, and they felt the same during their first time. And then everything is okay, and the gun too, employees who were on the squad were not allowed anywhere near it during their first time, they all watched from a distance. Reactions are unpredictable. You may lose consciousness, who knows what you are like. No one knows a man's psyche. We looked at his state, and this was often far from a pleasant sight. The next time he came closer. A murder is always a murder, even if it is sanctioned by the law. There is nothing romantic about it, nothing to boast of. There is no heroism, and this is not a place where one can receive a medal. I have never romanticized or heroized this profession.

– In your book you wrote that you dismissed people from work if you saw that they received satisfaction from the process of execution.

– There were...some overt manifestations of sadism towards the people who were going to be executed, the wish to hurt them. It could be fair from the viewpoint of personal revenge, but for what purpose should an executioner excessively tighten handcuffs and kick a prisoner? They would argue saying that he will die in any case, and you can't hurt him more than that anyway. There were such people, but it was a rare instance.

– You wrote about the feelings of death row prisoners, how they fear the opening of the doors. Did you feel it yourself, or did they tell you?

– I didn't need to ask them to know it. It can be felt by the way they feel and behave. They never know why the doors are opened. They react to every opening, and react the same way. They get breakfast through the food tray. They aren't lead out for walks. The same doors are opened to take them for a bath, and also for execution. Sometimes a prisoner is also escorted for a meeting. As a rule, he knows about the meeting as he is informed about it in advance. All other procedures that deviate from the usual routine cause terror. A prisoner knows how many people came and for what purpose by the number of the steps. When the number of steps exceeds some standard norms, the prison head might come for example, usually we visited the cells in a group consisting of the head, two-three officers and two-three guards. When they hear by the number of the steps that some six, seven, or eight people have come, they understand that it is not for giving them some books or taking them to the bath. They feel it all. On what level? Unconsciously? But they do feel.

– Don't they resist, as a rule?

– Their will is depressed and they don't resist. And they think that they still have a small chance to be pardoned. There was one case of resistance. One. Maybe, they felt some inner protest: "Where do you take me?" It was the only single case of real resistance.

– We discuss the topic of the death penalty with our students, and the question of what a man who has executed a death sentence who comes home is often asked. He has children and he goes to the park with them, because he has received a wage bonus. What would you say about this emotional moment, to what extent the executions influence family life?

– There was no influence, these were normal families, I would even say that they were probably better than some others. This is just the emotions

of the youngsters, students, and of adults, too. When it all becomes a part of the working routine and one's duties, one gets accustomed to it. No one forces a man to do it. He is just offered and he estimates whether he can do it, judging by his abilities. And it happens that somebody can do it, he may experience some stress, but not so much as to lose consciousness. As a rule, these people even drank very little. They didn't swamp their grief in alcohol, and instead had a stable psyche. That's why I didn't see any problems. And then, the degree of guilt, do you think that the person who pulls the trigger feels guiltier than the others? This guilt is shared by everyone: the one who holds the prisoner, and the other who pulls the trigger. That's why there was no particular difference between those who held and those who shot.

– *Did you speak with prisoners while they were on the death row?*

– Yes, any prisoner has the right to write to the prison head and ask for a meeting. I never refused anyone. They understood that I couldn't abolish the sentence, but I managed to solve the issues associated with parcels, meetings and even library questions. I visited a cell once a week. I talked with them. As a rule, they said they had no questions, or that it was too cold or hot in the cell. Such usual things. I remember Famin because we knew that he had taken the blame for someone else's crimes. However, he had incriminated himself so profoundly that when he started denying it, he was already caught up in it and nothing could be done. There were people, my colleagues, who sincerely sympathized with him, saying: "Fool, you've got yourself shot!", and he answered that the gang would save him. It would be like in the terrorism case, if someone were to come and write a confession saying, "I am the one who blew the metro", then it will be said that those fellows were shot illegally. If these people, Famin's accomplices, came and said "Let the guy go, it was us who killed that man", it could save him. But when he appealed to them they, of course, didn't answer. And I remember that some five minutes before his death he said: "What bastards. They deceived me."

– *Was Famin's case the only case of miscarriage of justice in your practice?*

– This is not miscarriage of justice. This man was "heroically" hogging the blanket and the audience in the court applauded him for it. "Good for you, bro! You'll have a good time in the colony, youngsters aren't shot!" they said. He also eloquently described how he had allegedly drowned the taxi driver, killed and abused him. He convinced the court. But it wasn't the only case of such a kind. There were also two brothers, both with previous

convictions, who also killed a taxi driver. Both of them took the blame. They were interrogated separately. One brother said, “I killed him!” while the other said, “It was me!” in another room. Both were sentenced to death. Each of them incriminated himself. But then, sitting in neighbouring cells, being separated with a wall, they sent curses to each other when they realised that this was no joke. Other gangsters may applaud you in the courtroom with, “Atta boy! You’ll be remembered!”, but then the fairy-tale ends when you get put on death row. These brothers cursed each other until the end. Both of them were executed.

There was a case that has remained in my memory, when two men, one of whom was 18 years old, and the other was under-age, killed a neighbour, a child who had carelessly told them that there was some money in the house. In this case, if the younger one had taken the blame, he would get ten years, but he would have saved the other one from being shot. However, their ways parted at the trial, he refused, and Bandarenka was sentenced to death. One’s fate stands behind each crime, much could be told about these cases.

– *Pardoning is used very seldom in our country. Why is it this way, in your opinion?*

– There is a small catch, and it focuses on if Belarus didn’t have life imprisonment as a type of penalty. If the court chooses the death penalty out of two or three kinds of penalties available, the President cannot get out of this strictly defined corridor and believes that the court knows better. If there is no such alternative as a life sentence, there could be more pardons. Pardoning is a possibility that is formed in the consciousness of the person who is at power. One mustn’t read the criminal case to pardon the perpetrator. The papers don’t give an idea. For instance, he may come across a line that doesn’t fit in his understanding of humanism, such as “murder with extreme cruelty”. If you read all criminal cases that get to the Commission on Pardons, there is nobody to pardon, one is just unable to bring oneself to it. The act of clemency should not be connected with the criminal case. This is a pardon, it is more on the emotional level. The seriousness of the crime plays a role. But all of them are serious. Killing one man is a heavy crime, and killing ten people is also a heavy crime. One cannot determine how many people can be killed before one cannot count on clemency, and there can be no manipulation with these concepts. How can the President be convinced to use his right to clemency, and why should he use it? On what basis? Just because they are young? Their victims were

young, too. That's why I'll repeat it again, the pardoning should not be connected to the criminal case. Otherwise, no one will be pardoned.

The problem lies in our lack of confidence in the courts. If our courts were independent there would be no doubts. This is the sore point of our legislation. In democratic countries, the court is independent.

– *The main argument against the death penalty is the possibility of a miscarriage of justice. How much did you feel its possibility at certain points?*

– We have already spoken about Famin, and now you are holding his appeal in your hands. I knew that he hadn't committed this crime, but I cannot call it a miscarriage of justice. This guy was doing everything to convince everyone that he had done it. He did everything for it and stood his ground to the last. Then there was also the information from the cell, who had killed and why, but he continued to deny it until the bitter end, and he signed the verdict himself, he was there, maybe even kicked and abused the man, but didn't kill him. That's why it is necessary to split the question into two parts: poor-quality judicial investigations and innocent men. Otherwise the guilt is disproportionate to the penalty, as in Kavaliou's case. This is my subjective opinion. The miscarriage of justice is when a sentence is imposed as a result of denunciation or a wrong accusation without studying the circumstances. All of us lived through it. It was during the repression of the 1930s, when no circumstances were investigated and one appeal or denunciation was enough, even if it was absolutely untrue. It was described well enough by Solzhenitsyn in "One Day of Ivan Denisovich", when an accused man and an investigator tried to invent a spy and the country he could have been from. They were unable to find such a country, that's why the accused remained a spy, but without affiliation with any particular country. This was already a crime, not even a miscarriage of justice. The investigators and judges were well aware of the innocence of the accused, but condemned them following the traditions that were established in the country. Of course, they did it because of fear.

The probability of a miscarriage of justice, albeit small, remains. We know cases in the United States, when people are acquitted of crimes many years after on the basis of the DNA analysis. How can one avoid a miscarriage of justice? How can one get insured against it? I do not know, there is no recipe, a universal law to do this has not been invented. That's why advocates for the abolition of the death penalty are right in this respect. Life sentencing is an alternative to the death penalty that can provide immunity against judicial errors, whose possibility I don't rule out. So, let people live.

Maybe the time will come and the case will receive a proper investigation. Sometimes the psychical state of an arrested man is so contrary to any logic that he is inadequate because of fear. People mainly commit crimes while drunk, and then they wake up and don't know what they have done. They repent but still say anything they can, and it is very difficult to disprove it afterwards. When one tells and signs it all and, moreover, happens to come across an insistent policeman who will shake it all out of him, he testifies under stress and then says, "It seems that it all was another way round", and the circumstances confirm it. One student was held in the Minsk remand prison on charges of killing the woman he loved who was older than him. He came home drunk and she was lying in the bed. He drank some more and fell asleep. When he woke up he saw her corpse, she had been killed with a bottle or something else. He called the police and said, "I killed her". The police didn't examine the case attentively, and while being held in prison he sincerely believed that he had killed her, and repented it. In some 15-20 days later a drug addict was detained who also confessed to killing her. The door was open, she was sleeping and the student was sleeping, too. The addict started stealing the golden jewellery from the bedside table and the woman opened her eyes. He hit her in the head and killed her. If this student had been convicted he wouldn't have even argued, he loved her and repented her murder. The addict was taken to prison, the student was released. I knew such cases, though they happen seldom, when people may not understand what they have done because of stress or being drunk. And of course, there is only one alternative, life imprisonment.

There is one small detail which may not be worth mentioning in Belarus given the mentality of the people and its certain tolerance towards the sort of thing, that being the risk of vigilante justice. It is unlikely to happen in Belarus, but in Russia, especially in some regions where the laws of the blood feud and the principle "death for death and eye for an eye" are still in action, no one will wait for the trial. I even remember how two Russians came from Rostov-na-Donu while I was the head of the colony in Navasady…there were two brothers, beefy men...their third brother was killed. He went to Belarus and was killed. The murderer was caught. Six year passed, there was some amnesty, but he wasn't going to be released on parole under it. And they came and offered me a bribe so that I would recommend him for amnesty. I answered, "What for? Let him continue serving his term!" (He had been given 15 years). "Get him released!" they pleaded. And they were serving in some flash points, had come on vacation

for a month, and the amnesty was coming. And then I understood why they wanted me to get him released. At first I thought they were his friends, but when I looked closer I noticed that something was wrong. They wanted to kill him. They asked me to release him, because they wanted to kill him, and said, "We have little time! We cannot wait. We don't know how our life will go!". Of course, nobody released him. The brothers disappeared greatly offended by me, but later calmed down after they released how they had avoided sinning. However, there can be a risk of mob justice in a country where the death penalty is not used, but it can happen only until the detention of the criminal. However, if we take all risks into account, we will never do anything. Sometimes it is necessary to step over public opinion, over somebody's will, because the law is the law, and will always go against the will.

– *What is your present position on the death penalty? Are you for or against it?*

– My position has changed over a long time. Now I am living in a country where the death penalty is not practised. There are no corpses lying in the streets, no one is killed, and it happens extremely seldom. There is no death penalty in France, where the population is quite mixed, either. The guillotine was put in a museum only in 1980, but it worked until then. Other European countries live without the death penalty, too. If these countries live without it an there is no surge of serious crimes, it is, probably, the best proof that a country can exist without the death penalty, and I now I am living in such a country. Even Russia lives without the death penalty, and there are all sorts of things in it. All CIS countries found the courage to abolish the death penalty. It remains only in Belarus. Seek the abolition of the death penalty, you are human rights activists! If my arguments help you, please, use them. My arguments are that I live in the European Union where there is no death penalty, where people can feel safe and confident, as if you do not violate the law, then you won't be imprisoned even for 15 days. If you violate the law, then you've made this choice yourself. I am against the death penalty. I also became an adversary of the process of execution long ago, because it is not civilized. This procedure is depressing for everyone. My opinion is that the offender must not know that he has been sentenced to death, if we are guided by the principle of humanism. There are many ways to make him die peacefully, with the feeling that he has fallen asleep, but in our country it is deemed necessary that he must be read the verdict so that he will know and suffer. But this is a debatable point. I have never told it to

anyone (this is the first time I have voiced it). In any case, the person would pass away more easily than under the barrel of a gun. However, the penalty is not executed in this case, the offender must know his penalty. This is a debatable and controversial issue and I am not the one to decide it. The firing squad will work the way the MP's will tell it to.

– I would like to go back to Article 175 of the Criminal Code. Why aren't the bodies of the executed issued to their relatives, and why aren't the places of burial reported?

– I explain it to myself with the inertia of thinking and the legacy of the Soviet Union. When there were reprisals and extrajudicial killings, people were tried by "troikas". The heads of these bodies took decisions at their sole discretion, that's why there could be no talk of issuing the bodies, as anybody could provoke a riot and any burial could turn into a non-peaceful demonstration. The situation was too hot, and this momentum has lasted until now. There is a certain paradox in this situation, if a death row convict is killed in the cell or commits a suicide before the execution, his body will be issued. There was a case in Minsk where two inmates hung themselves on one rope in turn. I received some accusations that I failed to keep them alive until the execution. There were also such cases in my practice in Kazakhstan. A prisoner asked me, and I explained that if he was shot his body wouldn't be issued, but if he died on his own, the body would be issued. He hung himself the following day and wrote me, "Thanks for the advice!" One can understand it in two ways. Probably, he sincerely thanked me. That's why it is inertia and also the fact that the people who draft these codes and don't care at all, these provisions concern some abstract people, as if it happened somewhere on the moon. None of them, these MPs, have ever come and looked on death row convicts at least through the peep-hole. We, workers of the penal system, don't have the right of legislative initiative. No one cares about it. They took the old Code and copied it all from there. This is the inertia of thinking, it used to be so, so let it stay this way. So, you'd better ask this questions to the MPs.

– Why is there a veil of secrecy over the death penalty?

– Even if you keep asking about it, all your curiosity will get smashed against the prison walls. At present I am the only person who can speak about this, being not bound by oath and other duties. However, I also observe the office ethics and will not pass boundaries that should not be crossed.

– What is the best film that shows the death penalty most accurately?

– I saw some documentary footage on the death penalty, and it made me face it in my life. What can I say? There is a very good film, “Chekist”, which I can recommend. It is terrible. It was produced by the author of, “Peculiarities of National Hunting”. Watch it. Everything is shown very precisely there. The only inaccuracy at which I can point as an expert is that in this film people are shot from the distance of 5-6 meters. It’s too difficult not to miss while shooting someone in the head from this distance. And the fountains of blood, but all the rest is real. This film tells how people are sentenced to death, how they are executed.

Berlin, April 2012

Karel Schwarzenberg: I do not Understand the People who Support the Death Penalty, Having Lived in the 20th century

On October 8, 2014 in Minsk, a well-known Czech politician and public figure, Karel Schwarzenberg, participated in human rights activities together with representatives of European embassies, members of the Working Group on the Death Penalty in Belarus.

In the morning, a round table was held at the PEN centre where members of this organization, well-known writers Uladzimir Arlou, Adam Hlobus, the head of the Union of Belarusian Writers Barys Piatrovich, the head of “Viasna” Ales Bialiatski, the head of the Belarusian PEN Centre Andrei Khadanovich, the Ambassador of the Czech Republic Milan Eckert, British Ambassador Bruce Bucknell, the authorized Minister of Bulgaria Ivaylo Ivanov, as well as the Apostolic Nuncio in Belarus, Archbishop Claudio Gugerotti took part in a meeting with Mr. Scwarzenberg. In the evening, Karel Scwarzenberg took part in a public meeting in the public gallery “Ў”, together with representatives of the Embassies of the Czech Republic, Great Britain, Bulgaria and the head of the Human Rights Center “Viasna”.

In the course of these activities, organized in the framework of the week against the Death Penalty in Belarus, participants of the discussion focused on the value aspect of this problem, as the sad events which the previous 20th century was full with, as well as how the present ones demonstrate the urgent need for unity and harmony in the whole whole society for the preservation of each individual human life.

Thus, within the precincts of the writer's organization the human rights activist and writer Ales Bialiatski noted that the issue of the death penalty also concerned the fates of Belarusian writers. He reminded all in attendance that in 1930s the majority of Belarusian writers were killed by Stalin.

"I regards to the retention of the death penalty as a direct result of the Stalin era, as Stalin's legacy for our people. Of course, the war that is going on near Belarus and where people die every day, decreases the value of human life. This devaluation of life, however, should not decrease these standards for us. Belarusian culture and literature have always been humane in their nature, have always stood for humanness in people, looking for humanity even in the most adverse conditions and situations. The Belarusian culture is not the "Russian world", it is the struggle for the man, a civilized man, a European man," said Ales Bialiatski.

Karel Schwarzenberg considers the death penalty in the context of the ordeal for mankind as it was brought by the previous century, too.

"Today we are talking about the death penalty, but I do not know how the people who have lived in the 20th century can remain hesitant on this issue. I was born in 1937, in tough times, and hundreds of thousands of people were punished with death all over Europe before I even finished school. If you remember these murders across Europe, it is just impossible to imagine how a modern man can support the death penalty.

Surely, emotions play a huge role in this issue, as when another terrible murder happens, such as the killing of a child, people immediately appear who advocate for the death penalty. But, in my opinion, it cannot be the ultimate argument for the death penalty, because we cannot rule out the possibility of a miscarriage of justice. A killed man cannot be returned to life.

The most interesting argument I've ever heard is that the life imprisonment is costly to the state. However, I would ask what choice do you consider the better one, to feed several prisoners for a lifetime, or perhaps execute a few innocent people?

And you cannot deny that the right to life is one of the fundamental rights of a man.

It is clear that the struggle against the death penalty is sometimes very unpopular, as you can be accused of helping criminals. I am also very sorry for the victims of these criminals. But will it help the victims if their killers

are killed too? There are some periods in the history of each country when a man has to oppose the majority. The twentieth century has taught us that."

During the discussion Mr. Schwarzenberg, the chairman of the Foreign Affairs Committee of the Parliament of the Czech Republic, repeatedly stressed the necessity to struggle against the death penalty primarily from a moral viewpoint, as well as the importance of separating the very existence of the death penalty in the country from the political sphere. *"The death penalty is not about a confrontation between East and West, because, as you know, such big opponents in the political arena as China and the United States both have the death penalty,"* he said.

Mr. Shwarzenberg, who has been working on human rights issues for a long time, including 25 years in the countries of our region, stated the necessity of creating a wider public circle for the abolition of the death penalty with the aim to draw the attention of as many people as possible, including apolitical ones. However, since the main task of the abolitionists is to save people's lives, he does not oppose working with even the strangest political regimes for this sake, even if for them it is just a question of improving their image, because usually the death penalty is used by regimes that aren't much respected in the world community. Citing his own experience, Mr. Schwarzenberg also noted that in some countries it proved to be very useful to cooperate with the church and religious organizations even if the church was very closely linked with the ruling regime.

The representative of the Catholic Church, Archbishop Claudio Gugerotti, stressed that the doctrine of the modern Catholic Church clearly states that the death penalty is unacceptable and has always been so, but the problem is not religion as such, as the religion itself, as recent events in the world prove, can provoke an outbreak of aggression. According to the archbishop, the problem lies in the fact that the society is not prepared to take up the values that are promoted by the church. *"As said by Karel Schwarzenberg, the death penalty is not a problem of the political sphere, it is a problem of all of us and all over the world. And the question is, what we do in everyday life and how we promote the idea of inviolability of human life…changing social attitudes takes much time. And in my opinion, education can help here. The Catholic Church, and, I think, the Orthodox Church, take efforts in their areas, but our efforts alone are not enough..."*

Participants of the events also stressed that a referendum could not be a solution to the existence of the death penalty in the country. In particular, it was

stated by charge d'affaires of Bulgaria in Belarus, Ivaylo Ivanov: *"The fact that in 1996 the population of Belarus voted in favour of the death penalty at a referendum, cannot be an excuse for the Belarusian State to have executions and death sentences. This is inhumane. The very fact that the country has the death penalty is shameful. I think Belarus is not only the geographical centre of Europe, but also the centre of civilization. Belarusian people are highly educated and tolerant, but the population does not know much about the death penalty, not everyone knows even about the very fact of its use in the country. That's why one cannot expect a meaningful vote "for" or "against" the death penalty in Belarus in the near future. I believe that this issue should be resolved by the Parliament and the President of Belarus."*

As noted by a representative of the British Embassy, David Spires, the Working Group on the Death Penalty in Belarus was formed about five months ago, and the number of its participants increases. The working group, represented by the embassies of Great Britain, the Czech Republic, Poland, Bulgaria, France and Italy, are ready to cooperate with any organizations working for the abolition of the death penalty in Belarus.

October 9, 2014

Hary Pahaniaila: The Time has Come to Revise the Law on the Death Penalty

Human rights activist Hary Pahaniaila speaks about the reasons why the death penalty is torture for the family of the executed, about the "right to the body", and the subjectivity of judges in sentencing death.

– Why aren't the bodies of the executed issued to their relatives in Belarus?

– The origins of the law, according to which the relatives aren't issued the body of the executed and aren't informed about the place of burial, can be traced to the Soviet period. Thus, the state agencies try to conceal the date of execution and the place of burial. This is explained by the wish to avoid desecration of the bodies of the people who committed serious crimes. Of course, such practice cannot be considered as normal. The UN Committee has repeatedly stated that the procedure of the death penalty in Belarus has signs of torture and inhuman treatment in relation to the executed, as well as their relatives. The date of execution is not announced. A convict

stays on death row for a few months, which is a hard challenge for a human psyche. He doesn't know the time of the execution and cannot get ready for it, believers may not have time to confess to the priests of their denominations. This is a violation of Article 18 of the Covenant on Civil and Political Rights, "Freedom of Religion and Belief". It is also torture and inhuman treatment with regard to the relatives, as under the current law the relatives have the right for the body. The body must be issued in all cases. If it cannot be hidden in case it is found as a result of an offence, it must also be issued in case of the death penalty, so that the relatives could observe the local national, ceremonial and religious traditions and visit the grave afterwards. Of course, a person could commit a crime and be sentenced to death, but how can we regard the non-issuance of the body? Is it an extra penalty for the relatives? Additional suffering? Even though the Republic of Belarus continues death executions, it is necessary to put the very procedure of the death penalty in line with our national traditions, taking into account the public opinion – to announce the date of execution to the convict and report this date to the relatives, and issue them with the body for burying it where they need.

– *What are the alternatives to execution?*

– Talking about the death penalty in Belarus, I should also remind that since 1998 Belarus has also used the life imprisonment as an exceptional punishment alternative to the death penalty. But this law does not set the criteria by which we could clearly define when one should use the capital punishment or the life imprisonment, which certainly creates difficulties for judges. It also introduces a certain share of subjectivity, personal attitude of the judge to the circumstances of the case and the personality of the defendant. I should remind you that when the legislature retained the death penalty as a temporary measure, it was provided that such cases would be considered by the jury. This is a more democratic form of judicial proceedings that takes into account a broader view of citizens, the twelve "angry" who decide one's fate. They should express their attitude and determine the verdict: "guilty" or "not guilty", as well as the scope of guilt. I am convinced that this form of trial, when citizens of a high moral authority are called to the criminal proceedings as jurors, would bring humanistic ideas, human relations and in some respects, the Christian attitude that people cannot be punished with death on behalf of the State. And jurisprudence itself would gradually eradicate the capital punishment. For instance, if the jury were to say, "Yes, he is guilty, but deserves life

imprisonment, not the death penalty". All of us are fully aware, and Metropolitan Filaret has spoken about it, "The death penalty is another nail in the crucifixion of Christ". It is the sin of homicide, but committed on behalf of the State and in the form of revenge. Therefore, the sentencing is accompanied by the subjectivity of the judge.

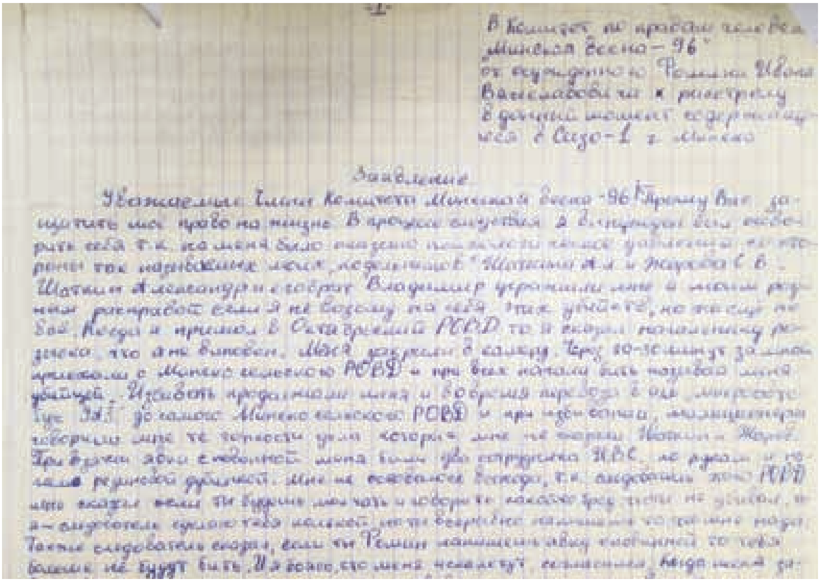
– *Where does the subjectivity stem from?*

– Public opinion is formed yet before the sentence, as it was in the case of Kanavalau and Kavaliou. When the head of the state said that only the most stringent measures should be used he, in fact, issued the verdict which was to have been issued by the court. Press publications that violate the presumption of innocence do also form public opinion. All this affects the judge. He also lives in this reality, among the people, reads the same newspapers and watches the same TV. Of course, all of this somehow forms his inner convictions. He must be guided by law and his inner convictions while making a sentence. It is impossible to eliminate subjectivity from the judicial practice. However, an experienced and professionally courageous judge must abandon public opinion and be guided by what has been found at court, where evidence is studied according to the procedure, established by the Criminal Process Code. Only such great spiritual and professional work can help in rendering a fair verdict, which can be called lawful and justified.

– *Do you communicate with the judges who impose the death penalty? How do they feel about it?*

– Yes, of course, I used to be a judge myself. However, given the level of my court, the people's court, such cases were beyond our powers. Nevertheless, I managed to talk with the judges of the regional courts, Minsk City Court and the Supreme Court. I had many friends among the judiciary. We discussed especially high-profile cases, touched upon the subject of spiritual experiences, the burden assumed by the judge who imposes the death sentence. Believe me, the experience is very, very serious. It is a very heavy spiritual work, and it leaves a trail in the head and heart, and affects the physical state. This is hard work, but the judges are bound by the law. When the law allows the use of such an extreme punishment as shooting, such sentences are issued in a number of cases. It is impossible to come to everyone and ask, and not every judge would agree to frankly speak of what thoughts he was guided by when determining the punishment. Each of the judges who make such judgements have a personal attitude to the death penalty.

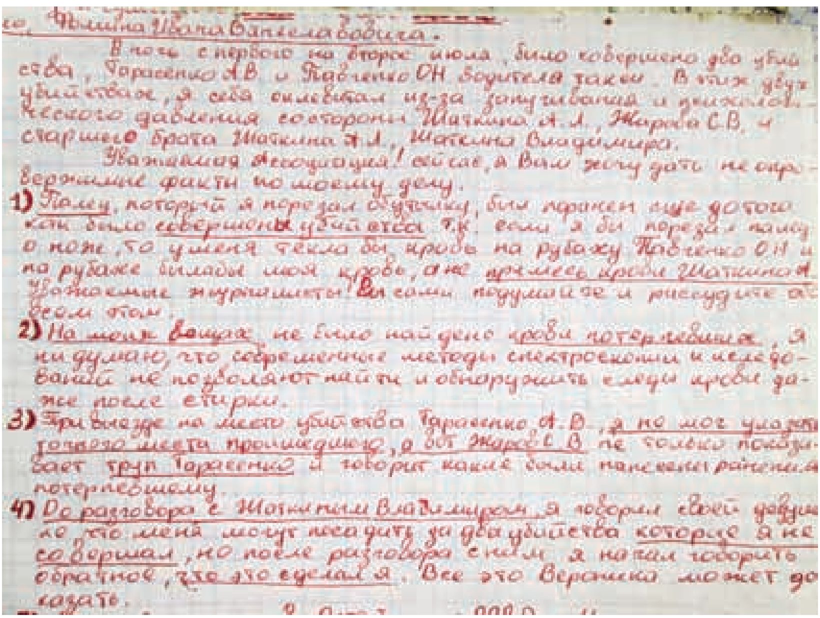
April 7, 2014



В Комитет по правам человека «Минская весна-96» от осуждённого Фамина Ивана Вячеславовича к расстрелу в данный момент содержащегося в Сизо-1 г. Минска

Заявление

Уважаемые члены Комитета «Минская весна-96» прошу Вас защитить моё право на жизнь. [illegible]



...Фамина Ивана Вячеславовича.

В ночь с первого на второе июля, было совершено два убийства, Тарасенко А.В. и Павленко О.Н. водителя такси. В этих двух убийствах, я себя оклеветал из-за запугивания и психологического давления со стороны Шаткина А.Л., Жарова С.В. и старшего брата Шаткина А.Л., Шаткина Владимира.

Уважаемая Ассоциация! сейчас я Вам хочу дать неопровержимые факты по моему делу.

1) Палец, который я порезал бутылкой, был поранен еще до того как было совершены убийства т.к. если я бы порезал палец в ночь, то у меня текла бы кровь на рубашку Павленко О.Н. и на рубашке была бы моя кровь, а не примесь крови Шаткина А. Уважаемые журналисты! Вы сами подумайте и рассудите обо всём этом.

2) На моих вещах не было найдено крови потерпевших. Я не думаю, что современные методы спектроскопии и исследований не позволяют найти и обнаружить следы крови даже после стирки.

3) При выезде на место убийства Тарасенко А.В., я не мог указать точного места происшедшего, а вот Жаров С.В. не только показывает труп Тарасенко и говорит какие были нанесены ранения потерпевшему.

4) До разговора с Шаткиным Владимиром, я говорил своей девушке, что меня могут посадить за два убийства которые я не совершал, но после разговора с ним я начал говорить обратное, что это сделал я. Все это Вероника может доказать.

A letter sent by Ivan Famin to Viasna in 1998 from death row in the Valadarka jail in Minsk. Ivan Famin was eventually executed despite being innocent





Death row in the Valadarka jail in Minsk. 2006



Death row in the Valadarka jail in Minsk. 2006





Aliaksandr Hrunou's prison clothes sent to his mother after the execution in 2014





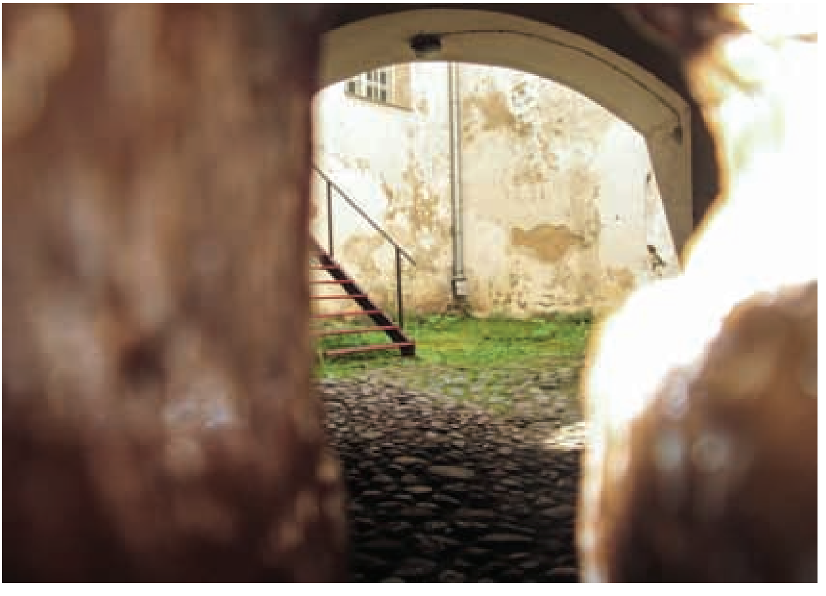
Dominican Monastery in Vilnius. The monastery was transformed into a prison and held Kastuś Kalinoŭski, one of the leaders of the January Uprising, before his execution in 1864





Dominican Monastery in Vilnius. The monastery was transformed into a prison and held Kastuś Kalinoŭski, one of the leaders of the January Uprising, before his execution in 1864





Dominican Monastery in Vilnius. The monastery was transformed into a prison and held Kastuś Kalinoŭski, one of the leaders of the January Uprising, before his execution in 1864



A monument to the victims of Soviet-time mass executions in Kabylackaja Hara, Orša





Site of Soviet-time mass executions in Mahilioŭskaja šaša, Orša





Pre-trial prison in Valadarski Street in Minsk (Piščala Castle)





Kurapaty Forest outside Minsk, a site of Soviet-time mass executions





Activists of the campaign “Human Rights Defenders against the Death Penalty in Belarus” urge people to sign a petition against the death penalty. Minsk, 2009



Activists of the campaign “Human Rights Defenders against the Death Penalty in Belarus” urge people to sign a petition against the death penalty. Minsk, 2009



A press conference featuring the parents of death convict Andrei Zhuk and human rights defenders. 2009





A press conference featuring the parents of death convict Andrei Zhuk and human rights defenders. 2009



A performance staged in Minsk to campaign against the death penalty. 2009





A performance staged in Minsk to campaign against the death penalty. 2009





A performance staged in Minsk to campaign against the death penalty. 2009





Tamara Chikunova (right) arrives in Minsk to support Sviatlana Zhuk after the execution of her son. Salihorsk, 2010





October 10, World Day against the Death Penalty. Minsk, 2011



October 10, World Day against the Death Penalty. Minsk, 2011



Iryna Toustsik and Ales Bialiatski picketing on October 10, World Day against
the Death Penalty. Minsk, 2011



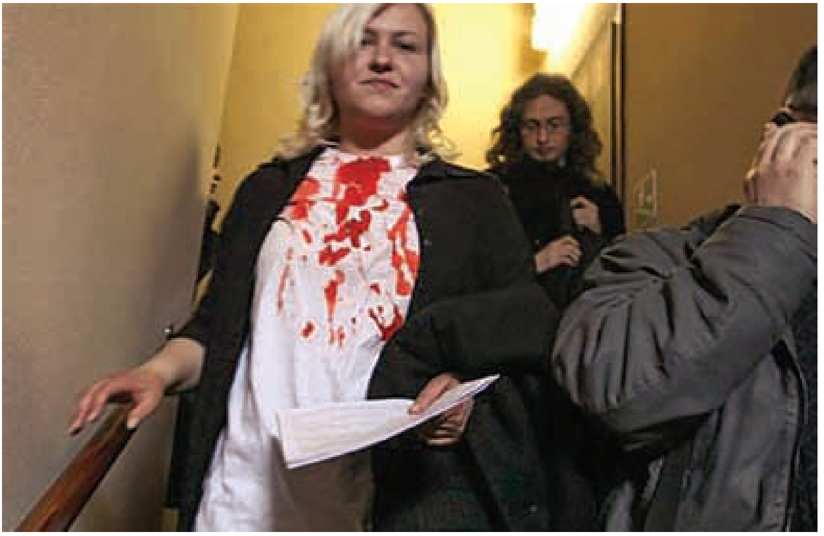
Ales Bialiatski picketing on October 10, World Day against the Death Penalty.
Minsk, 2011



Minsk joins the Cities for Life campaign. 30 November 2012



Ales Bialiatski at the trial of campaigners against the death penalty. March 2010



Iryna Toustsik at the trial of campaigners against the death penalty. March 2010



Iryna Toustsik and Valiantsin Stefanovich at the trial of campaigners against
the death penalty. March 2010



Iryna Toustsik and Valiantsin Stefanovich at the trial of campaigners against the death penalty. March 2010



Human rights defender Valiantsin Stefanovich and Tamara Chikunova, founder of the Mothers against Death Sentence and Torture NGO. Vilnius, July 2014



Tamara Chikunova, founder of the Mothers against Death Sentence and Torture NGO.
Vilnius, July 2014





Participants in the Fifth World Congress against the Death Penalty march in Madrid.
15 June 2013





Participants in the Fifth World Congress against the Death Penalty march in Madrid.
15 June 2013





Participants in the Fifth World Congress against the Death Penalty march in Madrid.
15 June 2013





Cities for Life online campaign. 30 November 2014





Cities for Life online campaign. 30 November 2014





Cities for Life online campaign. 30 November 2014

Andrei Paluda: If the Authorities Believe that the Death Penalty Deters Crime, why do they Conceal Information about the Executions?

The human rights activist considers the most popular pros and cons of the death penalty and analyses the public opinion on this subject in Belarus.

– Andrei, to justify the use of the death penalty the officials often refer to public opinion and the results of the referendum of 1996. They say that this is the decision of the Belarusian people and one cannot run counter to it. Does the majority of Belarusians still stand for the death penalty?

– If you refer to a recent study conducted by the company Satio, the majority of Belarusians indeed support the death penalty. However, it is a very volatile situation. Even if we take account of the results of the referendum, the legitimacy of which independent experts and human rights activists have questioned since 1996, a new generation has already grown up, which did not vote on it. And the polls show that the majority of young people are against the death penalty. I'd also like to note that at the time of the trial of Kanavalau and Kavaliou, society clearly parted into those who were for and against the capital punishment. Again, if you look at the survey results, many people support the death penalty, but under certain conditions, "if there was an independent judiciary in Belarus", "if there was a jury trial", and "if the offender's guilt has been proven 100%", etc. And all these conventions say that many Belarusians do not have a confident answer to the question of the death penalty.

– You stressed the independence of the judiciary. Indeed, the Satio research and other polls show that Belarusians do not trust the judicial system. What do you think is the reason? Not everyone has personally been faced with injustice in the court.

– If you look at the number of administrative penalties in the country, you'll see that probably every Belarusian or his/her relatives have had to face our judicial system and law enforcement agencies. They experienced the dependence of these bodies on the regime, and defects in the legislation. Besides, we have enough wrongfully convicted citizens. A striking example is Mikhaul Hladki, sentenced to eight years in prison for allegedly killing

his brother. The real culprit, Eduard Lykau, was found already after the release of Hladki from jail, and was sentenced to death.

– By the way, Lykau's case became known to the public only after statements by human rights activists. Why did law enforcement agencies decide to silence a high-profile case? All in all, the man was accused of five murders.

– Indeed, the first statement about this case was made by the company "Human Rights Defenders against the Death Penalty". After that, this topic was eagerly picked up by journalists. The court and the Investigative Committee had to comment on the situation. This again witnesses that the state conceals information on death sentences and executions. Accordingly, we cannot be completely sure of the figures that are drawn by the state agencies. On the one hand, the authorities say that the death penalty helps to deter crime in society. Why did they keep quier about Lykau's case then? Why didn't they report these five murders, if they are so interested in stopping and preventing serious crime in the country? It turns out that their argument doesn't work!

– In the recent years the topic of the death penalty has apparently become interesting not only for human rights activists, but also for state and private media. Articles on this topic receive thousands of views and comments.

– Indeed, the topic of the death penalty has become a media subject. It is very important for us, the campaign "Human Rights Defenders against the Death Penalty in Belarus", because one or two years ago there was no active discussion in the media.

– However, a part of the commentators often speak in defence of the death penalty, sometimes in a very abrupt and harsh manner ...

– At this point, I think that the most important thing is not their position, but the fact that the discussion takes place. People can change their opinion if they hear strong arguments. Moreover, the arguments against the death penalty often become "top-ended" ones, gathering the most "likes", which witnesses the support of such a position among Internet users.

– In the comments, one can often meet the opinion that there is no need for taxpayers to spend money on feeding the criminals who have been sentenced for life (as an alternative to the death penalty), and this money could be used for the social sphere instead. Is it really such a large sum for the budget?

– In fact, this figure is negligible. One of the participants of our discussion on the death penalty estimated that the maintenance of a criminal in prison costs about 150,000 roubles a day or 4.5 million roubles a month. The population of Belarus is 9.464 million people. This means that a taxpayer spends less than one rouble a day for the maintenance of one convict. Then, there are also cases when innocent people are convicted. Then, there are also cases when innocent people are executed, a striking example of which is the case of Mikhasevich in Viciebsk. So, I would like to ask those who defend the argument of saving the public funds, are such savings worth human lives?

– Another popular argument for the death penalty is the proportionality of punishment. For instance, if the offender has killed someone, he deserves to be killed just the same.

– Gandhi made a very good remark about this, saying, “An eye for an eye only ends up making the whole world blind”. In Belarus, the level of education in the field of human rights and the law in general, is very low. When you start viewing various movies and articles through the prism of human rights, you start perceiving reality in a different way. Being a human rights defender, I know that a newly born human being receives certain essential and inalienable rights, first of all the right to life. I would also like to return to the topic of the evidence of guilt and the work of our judicial system. Unfortunately, today we have examples where innocent people are held in prison. In the 1980s, one innocent man was executed for murders committed by the serial killer Mikhasevich, more were imprisoned for long terms after being tortured into testifying against themselves...in any case, the judicial system in any country of the world can make mistakes. I personally know a person who was sentenced to death in the United States. He spent 24 years in prison in Florida, and was released after a DNA examination, which revealed that he was innocent. Taking into account how quickly people are executed in Belarus (for instance, Uladzislau Kavaliou, shot 3.5 months after the verdict), I’m afraid that people in our country simply won’t live long enough to see either re-examination or liberation, despite their innocence. Bearing in mind all these arguments, we strongly oppose the death penalty in Belarus.

January 13, 2014

Andrei Paluda: Think, at Least for a Moment, How Can the Murder of a Murderer Take Place?

In Belarus, a “Week against the Death Penalty” has been held for the second year already. The main message of this year’s Week is “The Death Penalty is Murder”. The Week against the death penalty will be accompanied by very expressive images of the performers of the death penalty and the victim.

According to Andrei Paluda, coordinator of the campaign “Human Rights Defenders against the Death Penalty in Belarus”, these images let us imagine what happens at the last moment, when the punishment is carried out.

– This year, the week against the death penalty is accompanied by very clear visual images causing “creeps”.

“Yes, it’s a short video for the Internet. The executioner and the victim, stylized figures resembling the ones prisoners make out of bread in their cells, show an executioner in the aggressor pose and his victim, who is humiliated before the shooting. The author of these figures is Viktar Tratsiakou who is known as the author of the films “Cause of Death Left Blank”, “Departed on Sentence” and “Six Arguments against the Death Penalty”.

Our main goal is to make people imagine at least for a moment what happens on death row in the very centre of Minsk, in jail №1 in Valadarski Street. We walk or pass by this building every day, but cannot even imagine what is going on in its cellars. There are many people who support the death penalty, but view the death penalty only as an abstract justice. They don’t care how this justice is administered. Meanwhile, several months pass between the sentencing and execution, and the convict spends this time in full nervous tension, he is not informed of the date and time of execution, and waits for it the entire time. This is the time when the offender turns into a victim. At this point, the convict develops an acute sense of hearing, listening to every sound and step, waiting to be lead to his execution.

– How do you know that?

– Only convicts, guards and executioners really know what is going on in these cells. We human rights activists, learn about it from several sources. First of all, from what we were told by the former chief of the prison in Valdarski Street, Aleh Alkayeu, whom we visited in Germany during the filming of “Departed on Sentence”. We just talked on the subject of what happens in the cells of the people who are sentenced to death. Aleh Alkayeu then said something that is very memorable. He stated that, “All your inquiries will get smashed against the prison walls”. Of course, we cannot see through walls, but we are trying to somewhat lift the veil of secrecy from this topic through the images that we have prepared for the Week against the death penalty.

– What is the reason behind this “veil of secrecy”?

– It is the fact the death penalty is murder. And the executioners are aware of it, as well as the judges who pass such sentences.

– Why have you chosen this form, figures from bread?

– Since 1998, the Human Rights Center “Viasna” has been receiving letters from death row convicts in different ways. The first ones who wrote to “Viasna” were Ivan Famin and Siarhei Pratsirayeu. Mr. Famin was executed by shooting in 1998. Siarhei Pratsirayeu’s sentence was mitigated, and he was transferred to the cell-type prison in Hlybokaye, from which he continues correspondence with “Viasna”. He even used to receive the bulletin “Right to Freedom”. The correspondence with him was maintained by an activist of our campaign, writer and screenwriter Palina Stsepanenka.

The letter reached us through the “prison mail”. We also received letters from Andrei Zhuk, executed in March 2010. These letters describe how death row prisoners spend their time before the execution. They solve crosswords and sudoku, those who are more educated read books. For instance, as it followed from Andrei Zhuk’s letters, his cellmate Vasil Yuzepchuk, who was almost illiterate, tried to overcome the terror of death by singing: “I will get in a cabriolet and will drive out somewhere”, though one cannot drive out of there, just “depart on the sentence”. As we also know from prisoner letters, they make mannequins from crumbs of bread. That’s why we decided to use this form in order to convey to people the horror of the death penalty. We call upon even those who support this kind of punishment to think, at least for a moment, as to how the murder of a murderer can take place!

October 3, 2014

Priest Mikhail Tsikhanovich: Modern Church Calls to Abandon the Death Penalty

Father Mikalai Tsikhanovich, professor of moral theology at the High Seminary of the Roman Catholic Church in Hrodna, was one of the participants of the round table "Religion and the deat penalty", organized by the Council of Europe on June 21 in Minsk. At this event, Father Mikalai Tsikhanovich presented the position of the Catholic Church on the death penalty.

– What is the general position of the modern Catholic Church with regards to the death penalty? How has this position evolved?

– The traditional teaching of the Church was based on the fact that the death penalty is not contrary to God's law, but it is not its prescription either. The need for capital punishment was assessed according to the circumstances of life. Analysing these circumstances, Catholics spoke both for and against the death penalty. But over time the position of the Church has changed. Now the Church very clearly calls on the international community to abolish the death penalty in order to abandon such a "method of justice". This spirit was brought to the church by Blessed John Paul II, who in 1998, at Christmas publicly opposed the death penalty for the first time in the modern history of the Church. He stressed that that in today's world there were numerous opportunities to ensure and guarantee peace in the world and to protect modern society from aggressors, that's why the society should find other means than the death penalty. In 1999 in the United States, John Paul II reiterated his call to abolish the death penalty. And the climax was when in the jubilee year, 2000, he called to refuse the death penalty in general as a means of social justice. This is great progress towards a humanistic approach to the issue of the death penalty. The position of the Church emphasizes the spirit of the Gospel, the commandment of love, taught by Jesus. Also in 1999, the Papal Nuncio Renato Martini, speaking in the US on Christmas Day, made an official appeal to the United Nations Organization that all peoples should proceed towards the abolition of the death penalty. This is an evolutionary trend, the Church calls all modern citizens, especially Christians, to abandon this method of measuring justice.

– Believers ask you, Catholic priests, theologians, different questions. What are the arguments you normally use when considering the issue of the death penalty?

– As always in history, there are many people among the believers who are for the death penalty as well as those who are against it. But we argue, first of all, that the dignity of human life is a virtue that comes from God himself. God is the source of life, the giver of life. Only God can decide to give the person a life or to take it away. A man has no right to take his life or the life of another person. This is really the first argument, that human life is a gift of God, man is only the administrator of this life. And then, proceeding in the direction of the Gospel, we remember the preaching of Jesus Christ, as he called not to treat people with revenge. He called people to love their neighbours, pray for enemies and forgive. Jesus brings compassion and love. Even in moral theology, which I teach in the classroom at the High Seminary, I also show God's law of the Decalogue in the New Testament perspective, where we consider God's law in the spirit of the preaching of Jesus Christ, who emphasizes the dignity of human life, not going in the direction of revenge and aggression. And we call upon believers to review their attitude to the death penalty. Revenge, anger and hatred are not a measure of justice.

– There are some subtle psychological factors. The people who carry out the sentence, what happens to their soul from the standpoint of the Catholic Church? Do these people have a chance for repentance and salvation of the soul? Or is it not treated as homicide, as the executioner implements the will of others and his professional duty?

– We cannot but view this aspect as well. You must understand the situation of the people who carry out the sentence and even the physicians who state the death of the executed. This aspect is very important, as the conscience is the voice of God, and it does not depend on whether one is a believer or not. Everyone understands that life is a gift and should be valued. And we must also take into account this aspect. I believe that people who have to carry out the death penalty have large internal psychological problems. Man cannot remain indifferent towards the facts of what he does to a human life. Of course, such a person has a chance of forgiveness, the mercy of God.

– According to our law, the bodies of the executed are not issued to their relatives for burying.

– This is contrary to the Christian worldview. According to the Christian viewpoint, the body has the right to respect and a Christian burial after death, and it has the right to be buried in the ground. Christian burial is one of the most important rituals of respect for the man who passed away, and his body has the right to be respected. This aspect of the non-issuance of the bodies of the convicts must be eliminated from society. There are also social conflicts related to the family. People have the right to come to the graves of their relatives to pray for the salvation of their souls. And how can you come to the grave if you do not know where the body is buried?

– Let us recall the history of the 20th century, when mass executions were conducted in the Soviet Union. What was this time like from the standpoint of the Church, why did this happen?

– This was the problem of Soviet atheism. If man is not a bodily-spiritual unity (as in the Christian teaching), but is only material, its dignity which derives precisely from spirituality, is ignored. The Bible teaches that man is a being who has the image and likeness of God to him. Mass murder and disrespect for human dignity have been associated with a change in the view on the man. According to Communist views, a man is “highly organized matter,” which can be destroyed if it is “not needed by the society”.

– What is the Inquisition from the modern standpoint of the Catholic church?

– This is one of the most painful sides of the Church, for which John Paul II asked forgiveness from all the world in the year 2000. He asked forgiveness for all the sins and errors of the Catholic Church throughout its history. People often forget that the Church is a divine-human establishment, and this human aspect is important. Yes, there were times when the Church did not take into account the human aspect. This is a mistake of the Church. Now we understand it in the historical context, and apologize for it. The Church has evolved, and now it calls for the abolition of the death penalty.

Pope Francis wrote a telegram to the participants of the congress against the death penalty in Madrid, which I quote: “The death penalty has to be replaced by another kind of punishment, which would provide a chance for the offenders to reflect on their sins and improve, and give innocent ones a hope for justice”. And my own view, if you put forth such a question, is it possible to combine the Gospel with the death penalty? I would answer that the death penalty and the Gospel are incompatible.

October 10, 2013

Valiantsin Stefanovich: The Death Penalty is Barbarism in the 21st Century

The death penalty is not prohibited by international law. Moreover, the International Covenant on Civil and Political Rights allows its use for the most serious crimes. Meanwhile, around the world there is a steady trend towards the abolition of this exceptional punishment. In Belarus, an appropriate campaign has been announced by human rights activists. A correspondent for the electronic resource www.euramost.org talks with one of its initiators, Valiantsin Stefanovich.

– *The issue of the death penalty was brought for public voting at the referendum of 1996 in Belarus, and the majority of votes were cast for keeping the exceptional punishment. At the same time, the abolition of the death penalty or a moratorium on its implementation remains a relevant issue. In your opinion, why is the state interested neither in the abolition of the death penalty nor in its wide public discussion?*

– It is difficult for me to answer why the government is not interested in the total abolition of the death penalty, because at present we hear the statements of various state officials. One of the most recent is that of the new Speaker of the House of Representatives, Andreichanka, who said that Belarus had reached the stage when introducing a moratorium on the death penalty was possible. Recently, state officials have started to speak about it more actively. In a sense, they approach it from timeserving considerations, as the authorities are evidently focused on the membership in the Council of Europe. Meanwhile, Belarus is the only country in Europe and the post-Soviet space that is not a member of the Council of Europe, because one of the requirements for the membership in this organization is a moratorium on the death penalty. The authorities don't consider the essence of the death penalty from the humanistic and civilization standpoint, and there is no corresponding public debate either. Why is it so? I believe that this is an effect of the overall situation, the authorities don't like it when people discuss anything in principle. They consider it possible to present to society some incomplete information or disinformation, or even propaganda, but

don't want any public discussion even on some everyday issues, let alone painful issues that also have political implications. The death penalty can be attributed to these kinds of issues.

– *Why has the "Human Rights Defenders against the Death Penalty" been announced only now?*

– In fact we, human rights defenders, have repeatedly stressed that Belarus is the only country in Europe where the death penalty is practised, and I am sure that the time for introducing a moratorium on it in our country has come. We believe that the death penalty in the 21st century is barbarism, and have much hopes that this year Belarus will join the space that is free from the death penalty. Heads of states, as their position implies, mustn't be guided by emotions while making decisions, as ordinary people usually do. If we talk about the fact that the majority of the population voted for retaining the death penalty, the majority of the polls in Europe and the European Union also show that people speak for restoring the institution of the death penalty. However, ordinary people are guided by their emotional aspirations and revenge, whereas heads of states are an elite that should proceed from the humanistic and civilized positions and understand that human life is of the highest value, and nobody has the right to take it, even on behalf of the state.

– *Once I was very impressed by a report on the state TV that concerned a person sentenced to life imprisonment. Despite the fact that allegedly good conditions of detention were demonstrated, the prisoner actually reached a certain degree of mental illness and had a terrible, exhausted look. Moreover, a prison officer also noted that there was even a specific smell in the prison cells. To Your mind, to which extent is the life imprisonment more humane, as such cases are unlikely to be reviewed in our country, and people lose hope and could, perhaps, perceive death as mercy? Even if we imagine that the aforementioned convict was released, he would be totally unprepared for usual life.*

– This is a huge question that concerns the whole penal system and its reform. It should be considered integrally, as in general people who are released from jail are not very adequate and cannot adapt to ordinary life for objective and subjective reasons. We shouldn't forget that conditions in Belarusian prisons are far from ideal, and convicts are kept in very tough environments. That's why we should speak about the improvement of the conditions in penal institutions, construction of new prisons that would correspond to international standards, and so on. However, I believe that a life sentence is

much more humane than killing a man, and many studies show that convicts hold at their life in any case, the so-called animal instinct of self-preservation works here. Moreover, a life sentence allows for the rehabilitation of a man who was forced to take the blame for a crime. If he is executed, it is simply impossible to correct the judicial error afterwards. Meanwhile, there are many cases in history, both in the US and in other countries, when cases are reviewed after many years and it is concluded that a person has been convicted unlawfully and is released. Moreover, we must not forget that the aim of the penalty is to reform the offender, make him realize his guilt for the offence. Of course, if such a person is killed, he can neither mend his ways nor recognize his guilt. One cannot say that we defend criminals, offenders who have crossed that line and taken lives of other people. They must be punished for their crimes in accordance with the law, but, I should stress it again, we must proceed from the standpoint of humanity and humanism.

– You drew the example of the United States. We know that the laws of 38 of the 50 states of this democratic country envisage the death penalty and, therefore, give reasons to speak about violation of human rights there, especially to the Belarusian TV...

– I should say that when saying “democracy” and “democratic”, we speak of a very wide notion. We can draw many examples of democratic countries that have the institution of the death penalty, including Japan, the US and a number of other countries. If we look at it in a narrow sense, democracy concerns the formation of the power structures and, of course, the implementation of civil and political rights. However, human rights are violated in all countries, and the task of human rights activists is to struggle against it. Nobody says that there are no human rights violations in the United States of America. I myself was in one of the states, Florida, which is second only to Texas in the number of executed death sentences. And I must say that the US does not have such laws that restrict sex and age and the usage of the death penalty, as is the case with the Belarusian legislation. In our country it can be applied only to adult males who are less than 65 years old. The preservation of the death penalty in the United States is due to various reasons, including historical and traditional ones. American human rights activists, on their part, also struggle for the abolition of the death penalty. They hold pickets on the days of executions, demanding not to execute the convicts. Many of them state that the death penalty is often issued to poor people who don’t have enough money for good lawyers. Thus, this is an issue the American public has to deal with, and which is

discussed quite frequently. However, we must be guided by the fact that we live in Europe, a continent that is free from the death penalty, because Europe has determined it as its way of civilization, and that's why we must accede to this family of European peoples, and to the European civilization.

P.S.: At the end of 2007, the UN General Assembly adopted a resolution calling on all countries to progressively restrict the use of the death penalty, to introduce a moratorium on executions followed by the abolition of the death penalty. However, the resolution is non-binding.

January 29, 2009

Abolition of the Death Penalty. How can Journalists Help?

Belarus is the last country in Europe and the former Soviet Union that still practices the death penalty. This fact has been repeatedly stressed by the Belarusian media. Over the past 17 years, about 400 executions have been carried out, and there was only one case known where a death sentence was replaced by imprisonment. Who must fight against the death penalty, human rights defenders, journalists, or the Belarusian society? What role is played by journalists? **Palina Stsepanenka**, a writer and activist of the campaign "Human Rights Defenders against the Death Penalty", tells about the issue of the death penalty and the "place for the press", in an interview for Radio "Racyja".

– The problem is that Belarusian society today has no dialogue on this topic. It is not discussed, and there are a lot of people who just do not know that we have the death penalty. This topic should be discussed by both human rights defenders and journalists who should inform the public and initiate this dialogue. There is, of course, the problem that human rights defenders do not have access to the state media. And they have to do it through street protests, which sometimes end in detentions.

– Ms. Palina, don't you think we may overestimate the role of journalists in this conversation with the community? Sometimes it is also necessary to state the fact that the independent media has a small audience coverage, and that the state media simply tend to ignore the issue of the death penalty.

– This topic should be in the media, as it started back in the 1990s. The first thorough article was in the newspaper “Svaboda”, when it was edited by Ihar Hermianchuk. And this is one of those topics that people do not like to discuss. This subject is disturbing, terrible and unpleasant, but it needs to be raised because, as experience shows, a man who does not know that we have the death penalty, thinks about it only when it affects him personally. I have a good example. Sviatlana Zhuk, the mother of Andrei Zhuk, who was executed in 2011, always tried to remember how she voted at the 1996 referendum during the filming of the documentary “Cause of Death Left Blank“ (because the death certificates of executed people do not specify the cause of death, but only a dash).

– *What did she think about this topic then?*

– She was just sitting with her head in her hands and saying, “I cannot remember how I voted”. We kept silent. But it seemed like that she voted “yes”. The death penalty is a measure of justice. But no one thinks how it is carried out, and what is happening on death row.

– *The topic is uneasy for journalists, why? Is it because nobody wants to take sides, to protect a man who is believed to be a criminal?*

– This aspect also exists, but there is also a problem of getting this information, as it has always been closed. Remember that in the Stalin era these executions were always carried out at night, because the people executing the death penalties, these professional executioners, realized that they were killers. They realized it better than the supporters of the death penalty who shout that all perverts and paedophiles must be executed. People who are actually holding this gun clearly realize what they are doing. And this topic is closed. There is a veil of secrecy around it. It is not discussed by the judges who hand down the sentences or the people who execute them, and no one else involved in this topic.

– *If we are talking about society, then I, as a journalist, may influence public opinion, which prevails today in Belarus. But you, as a human rights activist, with which arguments would you advise me to come to the people, and what shall I tell them? Why should we be against the death penalty today?*

– All arguments against the death penalty have long been known, as well as the arguments for it. As long as mankind exists, the death penalty will exist with him. The main arguments were formulated by Cesare Beccaria back in the 18th century, and remain unchanged. We need to

tell people that there are people whom the state actually gives the right to kill, professional executioners who kill in the name of the state. We need to say that people are punished not only for crimes, but also for their political views. We needn't forget about mass repressions. It is also the death penalty. Sometimes such cases of the death penalty as executions in Kurapaty are separated from all the rest. We need to remember that the death penalty is torture for the relatives of the executed. The bodies of the executed aren't issued to them, the time of the execution is not reported. These people also have to live knowing that it can happen any time. We also must remember about the possibility of miscarriage of justice.

– *I also wanted to say that we should remember that not everyone can believe the court today, and it seems that Belarus has a clear example of when an innocent man was executed.*

– Right, this is a classic example when 13 people were convicted for the murders committed by maniac Mikhasevich, and one of them, Tsiarenia was shot. Moreover, the death penalty is ineffective because it has been proven that in the time of the offence, the offender does not think about the death penalty, and in our situation he very often does not even know that it exists in our country.

– *If we continue talking about Belarusian society, do you think that today Society is ready to discuss the topic of the death penalty? Is it ready to listen to the arguments that we have just enumerated?*

– Yes, Society is ready for a debate. This is witnessed by every movie or project that is associated with the death penalty, causing a lot of comments, both "for" and "against". Our society is interested in this topic, but making a decision to abolish the death penalty is not a matter of a referendum, it should be decided by political elites. There is another argument against the death penalty, as it prevents Belarus from moving towards the civilized world, to Europe, where they abandoned the death penalty a long time ago.

– *You've mentioned comments in online forums. Can you describe the atmosphere of these comments? What are they like?*

– Very often they can be aggressive, as people just spill out their feelings in the forum. If you keep track of them, they are impressively standard. People keep saying: "impale him", "pedophile" and "in the central square". In positive comments, they write that this is murder, that it does not solve anything. The religious argument, "Thou shalt not kill", is very important.

– For the past 17 years in Belarus, there have been about 400 executions. In your opinion, what prevents Belarus from abolishing the death penalty?

– The question is linked to the general human rights situation in Belarus. Any totalitarian regime retains the death penalty, which, on the one hand, is used to scare people, but on the other hand shows that the state is strong and can protect every citizen from the offender. This problem should be covered by a variety of means, as it is necessary to show it through art, too. You can find many films on the website of the Human Rights Center "Viasna". Now we are working on the project "Six Arguments against the Death Penalty".

June 20, 2014

How Should the Death Penalty be Written About?

Belarus remains the only country in Europe where the death penalty is still used. Though it could seem to be a well-known fact, polls show that the Belarusians are "completely unaware of what is happening in their country", while one third of the population is convinced that a moratorium on the death penalty has been introduced in Belarus.

Experts point at the lack of the media coverage of this topic. Human rights defender **Andrei Paluda** gives pieces of advice to those who write about this issue and tells about the most frequent mistakes made by journalists.

– Mr. Andrei, does the topic of the death penalty in Belarus receive enough media coverage?

– To my mind, it's insufficient. If we keep track of publications on this topic, they follow a sine curve, as the number of articles increases during the consideration of high-profile criminal cases. But this is not enough, since, as we see from opinion polls and reader comments, the general population lacks information. For instance, in the comments one can often find the opinion that criminals mustn't be given life sentences as they can be released on parole. What is this opinion based on? On stereotypes, since no Belarusian who had been sentenced for life, has been released from jail on parole.

– While describing the circumstances of criminal cases, the media often affect the privacy of the offenders and their victims. Should journalists focus their attention on this?

– One of the most fundamental principles of any human rights defender is, to "do no harm". I would advise journalists to keep to the same principle. Sometimes the presentation of the facts of someone's private life turns the whole story upside down. In order to gain ranking material, some journalists start working as the yellow press, describing not the facts, but the situation as they see it. I shall draw an example. In 1998, Ivan Famin was executed. The newspapers wrote that he used to kill cats and gouge out their eyes, forming the perception that he was a very terrible man, capable of the worst things. Pitifully enough, none of the journalists got to the truth, Famin incriminated himself and was executed because of a miscarriage of justice. Later on, this was confirmed by the former head of remand prison No. 1 in Minsk, Aleh Alkayeu, who was the leader of the firing squad. Therefore, journalists should study the topic more deeply, communicate with lawyers, human rights activists, and relatives, on both sides of the case.

– But it is quite difficult to get information related to the death penalty. Law enforcement agencies and courts often simply refuse to comment. Some information is impossible to receive in principle, such as how the places of the burial of the executed aren't reported even to their relatives.

– Indeed, the topic of the death penalty in Belarus is under a veil of secrecy. This situation is clearly reflected by the criminal case of Eduard Lykau who was sentenced to death in 2013. Human rights defenders learned about it only after the verdict of the Minsk Regional Court, though Lykau had been held in the remand prison in Minsk for more than a year before that. However, no officer of the law enforcement agencies informed the press about it. Meanwhile, Lykau was charged with five murders, and it is not the same as stealing a sack of potatoes! However, as soon as human rights activists reported on the case, the prosecutor's office, the court and the investigation committee, began to talk to journalists. That's why I would advise journalists to track information on the website of the campaign "Human Rights Defenders against the Death Penalty in Belarus", ask human rights activists and lawyers about the news, and more often bother the courts and law enforcement agencies with journalist inquiries.

– I know that you monitor media articles in the framework of the campaign

"Human Rights Defenders against the Death Penalty". What mistakes do journalists allow most often?

– As noted by my colleague Nasta Loika, sometimes journalists make mistakes in legal terminology while writing on human rights issues. But I would like to focus on one important principle that is often neglected by media workers, that is the presumption of innocence. No one has the right to state that a man is a criminal before the court judgement on his case enters into force.

Let's take the case of Aliaksandr Hrunou, convicted this year for the murder of a student, Natallia Yemialyanchykava in Homieĺ. From the very beginning, the information was presented in such a way that he allegedly wasn't acquainted with the victim and her family. Nothing was written about the conflict between them that provoked Hrunou's aggression. To make the reader understand how it all transpired, journalists should have written that Hrunou and Yemialyanchykava often spent their leisure time in the same companies, that they were from the same social group, and not as it was written, that she was a student with good academic progress, whereas he was a former convict and almost the last man in the city. The brother of the killed was a friend of Hrunou's and considered him an authority. He also had a prior conviction. On learning what humiliating words his sister had insulted Aliaksandr with, he called her to apologize, as it was a very serious offence in the eyes of those who used to serve a prison term. I don't justify Hrunou's actions, but it proves the need to give a full perspective if we want the reader to understand why everything happened a certain way and thereby prevent such crimes in the future. Another important moment is the hate speech often present in the media. Journalists who report on crime-related topics often make an emphasis on the nationality and social status of the offender. For instance, "Belarus-1" made a film about Ryhor Yuzepchuk. It constantly stressed there that he was a Roma, though it wasn't said a single time that his alleged accomplice was a Belarusian. Human rights activist Valianstins Stefranovich then appealed to the chairman of the Belarusian State TV and Radio Company with the call to halt incitement to national hatred on national television. Davydzka, by the way, said that an explanatory talk had been held with journalists from the criminal news department.

– Sometimes there are publications whose headlines include the phrase "death penalty" though when you start reading them you understand that the prosecutor will hardly ask for such a severe penalty. In your opinion, is

it worth to put the maximum penalty for the offence in the headline of the article?

– Journalists try to catch the reader's attention, that's why it is quite clear why the "death penalty" or "execution" are used in headlines. The topic of the death penalty usually receives many views and comments. On the one hand, it is another reminder. I should point that after watching the Russian TV channel NTV many Belarusians believe that we also have a moratorium, as they don't distinguish between the Russian and Belarusian TV. On the other hand, such things shouldn't be abused, lest one wants to lose the readers' trust.

According to mediakritika.by. September 23, 2014

Ryhor Yuzepchuk's, "Secrets of Investigation"

As it became known, the Supreme Court of the Republic of Belarus rejected the appeal of **Ryhor Yuzepchuk**[88], an inmate of the Mahilioŭ prison sentenced to death earlier this year. The verdict handed down on Yuzepchuk by the Mahilioŭ Regional Court for the murder of his cellmate finally entered into force. All of the domestic remedies have thus been exhausted, and there is only a reviewing authority and hope for the President's mercy. Still, there is little chance that Ryhor Yuzepchuk, who has been repeatedly convicted, including for murder, will be pardoned. Meanwhile, the facts relating to the case are not so unequivocal, and should lead to some reflection.

The official version of the murder was announced in a story aired on the "Secrets of Investigation" show on the national TV channel "Belarus 1", on June 1, 2013. According to the investigation and the verdict, Ryhor Yuzepchuk, having staked his life in a game of dominoes with his cellmate Ihar Khodanau and having won the game, strangled Khodanau to death with the assistance of another prisoner, Pavel Petrakou.

However, if you watch the story again, it can be concluded that both inmates, Khodanau and Petrakou, belonged to the category of prisoners with a "low social status". The show actually makes it clear that the two men were in an intimate relationship with each other and belonged to the above category. It is known that such prisoners are often subjected to violence from other

[88] As found by human rights defenders, Ryhor Yuzepchuk and Vasil Yuzepchuk are cousins.

prisoners, that's why the administrations of correctional institutions often hold them in separate cells. The cells where convicts with "low social status" are held receive the same status. According to the unwritten rules of criminal behaviour, inmates held in these cells and not belonging to the "low social status" category, should leave the cells as soon as possible, otherwise they risk being labelled the same status. And no matter how a convict manages to break out of there, either by attacking a guard, cutting his veins or otherwise injuring himself, and even murdering a cellmate. Prison authorities very often use all the circumstances of criminal life to pursue their own goals. We have heard of numerous instances when prisoners receive threats of sexual abuse from other prisoners. It is for these very purposes that these kind of cells are used. If you are not lucky enough to leave the cell, then you get a "low status", and explaining what this could mean to such a person in prison, perhaps, would be superfluous. Our society is rather criminalized, many people have passed through prisons and know these rules well enough.

Thus, I have a question. What was Ryhor Yuzepchuk doing in this kind of cell? The show "Secrets of Investigation" refers to the "low social status" of only two convicts, the victim, Khodanau, and Yuzepchuk's accomplice Petrakou. So Yuzepchuk, according to the story, did not belong to this category. Why did he find himself in that cell then? Couldn't the prison administration, knowing the criminal rules, put him there on purpose, as a form of punishment, revenge and further humiliation? However, Yuzepchuk, had been previously convicted many times (the latest verdict was 25 years for murder), and knew too well what he would be facing when staying in a cell for prisoners with a "low social status", and he chose one of the options in the current situation, namely the murder of a cellmate. Strangely enough, at the time of the murder the cell peephole was glued over with paper. However, the guards for some reason did not hurry to open the door and check what was going on there, twice confining themselves to verbal demands to open the hole in the door. The dominoes version could appear later to remove the responsibility from the prison administration. Yuzepchuk could be promised in saving his life for cooperation with the investigation and sticking to this version, which seems rather implausible. It's hard to believe that Yuzepchuk would play dominoes with the prisoners who, in fact, were untouchables under criminal rules. It is forbidden to even say hello to them or sit at the same table, let alone playing board games. Moreover, the story in the "Secrets of Investigation", did not suggest the motives for the murder of his close friend

for Petrakou. The testimonies shown in the story suggest that Yuzepchuk forced him to take part in the murder of Khodanau, probably under a threat of death. In addition, we have information that the cell where Khodanau and Petrakou were held really had a “low status.”

Of course, all this is just my speculations and thoughts after watching the story on “Belarus-1”, but one should agree that all these circumstances raise a lot of questions. What we don’t know is whether they were studied by the Mahilioŭ Regional Court, and later by the Criminal Board of the Supreme Court, or whether they were stressed by Yuzepchuk’s lawyer, appointed by the state. The crime took place in the prison where the administration should take all measures to preserve the life and health of prisoners. In case the transfer of Yuzepchuk to this cell was ordered by the prison administration intentionally, it means that in this case they jeopardized the lives and health of Khodanau, Petrakou and Yuzepchuk, who could have injured themselves or committed suicide. Of course, all of these circumstances in no way justify the killer, but they had to be considered and evaluated by the court in determining the motive and the nature of the crime, which, in turn, could have affected the verdict. The right to a fair and impartial trial should be guaranteed to all, regardless of who they are and what crimes they are charged with. This is the essence of a democratic state ruled by law, and a transition to which we should strive for.

However, we probably will never learn the truth about the crime. Yuzepchuk is on death row in Valadarski Street, waiting to be executed and, according to the administration of the prison, he allegedly refused a lawyer’s services. I won’t be surprised if the shooting of Yuzepchuk happens very soon, as it has often been, and all the “secrets of investigation” of the case will be safely hidden together with Yuzepchuk’s body in an undisclosed location.

Valiantsin Stefanovich
November 25, 2014

The Right to Life

I had to help the mother of an executed convict take back his belongings, which was psychologically quite hard. Killing one person cannot fix the death of another. The principle of “an eye for an eye, a tooth for a tooth” belongs to the Old Testament. The present Christian world lives mainly on the principles of the New Testament. The death penalty has

been abolished throughout Europe, except for Belarus, which remains the last island of the violent execution of criminals, an example of old-time barbarism.

Mobile phones, an empty purse, vinyl plates and cassettes of the executed man, and finally, his belt and shoes. There were two cartons of things which were returned to the mother. She still does not believe that her son had committed such a terrible crime. It's really hard to believe when you read the letters he wrote already in custody, first waiting for the worst sentence, and then, for an inevitable execution. The title, "Departed on the sentence", as it is called in their inhuman language, which always hides the true meaning of the phenomenon. The current legislation of the Republic of Belarus provides not only for the execution for particularly serious crimes, but also contains provisions for the actual torture of the defendant's relatives. According to the rules dating back to the time of Stalin, the bodies of the executed are not issued to the relatives, and they are not informed about the place of the burial. In a state that can hardly be called legal, it gives rise to various conjectures, such as that somebody can use the convicts for medical experiments instead of execution. On the other hand, it gives their families the illusory hope that the convicts are still alive. What a heavy kind of psychological torture!

I don't know how the investigation was conducted in this concrete case, but even a cursory review of the contents of the music collection of the youngster who was sentenced to death makes me conclude that he had mental problems, because mentally healthy people will not listen to such things. The people who have mental illness should not be killed, but isolated from society and given medical treatment. However, the law actually leaves no choice to judges.

Excessive penalty does not diminish the evil, but only multiplies it and increases hatred. How does a judge feel after the delivery of a death sentence? Allegedly, he has only fulfilled the law, but what dreams does he have, do the people's curses have effect on him? Somebody else also has to pull the trigger, pointing the barrel of a firearm to the head of the convicted person. How many of such sentences will he execute and what will happen to his psyche after a certain period of time? Of course, there is also a possibility of miscarriage of justice. This argument alone seems to be sufficient for refusing from the death penalty. At least, we don't have such a refined judicial system as the US, where the death penalty is

practised in a number of states. However, even there it is stated that about 20 innocent victims were put on the electric chair.

Europe has really refused itself from the death penalty. However, the human community still has something in its nature that prevents its life without killing others. There are some perverted tendencies, which go directly against all laws of nature, against God's providence, against ordinary humanity. And now people seriously put to consideration draft laws prohibiting women to give birth after reaching a certain age, propose forced sterilization, and other crimes. I don't even speak of abortions here, those who were born themselves, deny this right to others. The scale of this phenomena is simply horrifying. So unfortunately, nothing has changed in the nature of man through the ages. The people who want to live a long life, deny this right to others, and usually don't want to think about it.

Uladzimir Khilmanovich
From his blog at the website of Radio "Racyja", September 3, 2014

The Uniform of a Death Row Convict

Volha Hrunova, the mother of Aliaksandr Hrunou who was executed for killing his acquaintance, was mailed the prison uniform and boots that were worn by her son on death row. All this was sent by a general delivery parcel.

The uniform of a death row convict consists of two items, a gray-blue jacket and trousers of the same colour. On the jacket, there is an abbreviation, uneven letters written with white paint, "ИМН", standing for "the exceptional measure of punishment".

This is the second reported case when the uniform of a death row convict (not his personal clothes, but the ones that are issued by the state) has been sent to the relatives. This really begs the question of whose idea is it to send such horrible parcels?

On receiving the parcel Volha Hrunova realized that her son had been executed. According to Art. 175 of the Criminal Code, "the death penalty is exercised non-publicly by means of shooting. The body is not issued for burial, the place of burial is not reported."

Most likely, the uniform was washed before sending. Nevertheless, it retains the smell of prison, the smell of death. The convicts don't know the time of the execution until the last moment. They spend their nights and days waiting

for the inevitable execution, listening to the footsteps in the corridor. At this time their hearing and other feelings become unbelievably acute.

The moment when a criminal turns into victim is very subtle. Advocates of the death penalty believe that the sense of the death penalty is in this transformation.

In April 2011, during the filming of “Departed on Sentence” we visited the former leader of the firing squad, Aleh Alkayeu, in Berlin. When we finished filming our interview, during which the cameraman kept silent, the latter asked what film depicted the death penalty most precisely. Was it “Katyń”? In response, Aleh Alkayeu advised us to watch the movie “Chekist” and explained that the psychological component of the death penalty and the atmosphere surrounding the procedure of execution were portrayed there most accurately.

Those interested can watch this film, as it can be found on the Internet.

Supporters of the death penalty accuse abolitionists of “protecting criminals”, without thinking about the victims of their crimes.

I’ve heard such accusations in my address many times. However, the death penalty is evil per se. This is just another killing and its executor is another killer. And every death penalty only increases the amount of evil in the world.

Palina Stsepanenka
From her blog at the Belarusian Radio “Racyja”.
November 25, 2014

Aleh Alkayev: To Protect the Man

A long time ago, when I just came to Hrodna, I had a chance to talk with a well-known teacher of biology, working at Hrodna University. We talked about peoples and the civilizations they created, as well as the abstract idea of civilization. There was a great surge of the national Belarusian consciousness at that time, the national boom which had managed to restore Belarusian independence. That’s why the talks of that period often concerned our national origins and our national civilization, that were once founded by our famous ancestors and which our descendants needed to strengthen, develop and improve.

– “What do you think, which spiritual threshold do primitive people need to overcome to become capable of building a modern civilization?” He asked suddenly.

– “Is there any threshold?” I asked in response.

– “Yes,” he said confidently. “In different places at different times, people overcome this barrier. All of them have this defining moment of transition.”

– “What is it?” I asked with a sinking heart, waiting for an answer which, I thought, I already knew the answer to. But what I heard, together with the conclusions about the next threshold that humankind needed to overcome on the way to the improvement of the civilization, made me think over it repeatedly for many years, and even decades, after.

– “The first threshold of civilization was passed by people when they stopped devouring one another. There were times when cannibalism was acceptable. Now, however, most people cannot eat other representatives of their species. Even when they are starving to death, it is disgusting for them to do it. Now people should pass another moral and ethical revolution, when a man would be unable to kill another man under any circumstances. It will be as abominable for them to kill as it is disgusting to eat one another. This will become a new stage in the development of a real human civilization.

Over the years, I have been returning to these words more and more often. When I engaged in protection of human rights, I noticed the direct correspondence between a man’s level of civilization and the attitude to manslaughter. I can’t but feel bitterness and frustration that our state remains the only one in Europe that practices manslaughter by means of the death penalty. We are the only ones who retract from the pan-European civilization in this respect. Yes, the world is cruel and ambiguous. People are dying in wars and conflicts, having to fight to defend their countries and their ideals. Nevertheless, we need to make the first step to changing the attitude towards the death penalty, and we can make it as the rest of Europe has done already, by forbidding the State to kill through the death penalty. Not only does it decrease the possibility of miscarriage of justice, and not only deprives those who are at power the ability to use this abnormal rule for their own purposes. But it also changes the attitude of society and the lives of every individual within that society. This is the first step to understanding that human killing is unacceptable, disgusting and inhuman. This is the first step to a civilization where no one can kill others under any circumstances, like he cannot eat another man on the present stage of development. It is for this sake that

the Belarusian human rights defenders have repeatedly announced a week against the death penalty in Belarus that is usually held until October 10th each year. This is a Week of intense public work, which is already carried out every day, but becomes more massive and coordinated during this period. We need to make Belarusian society think more deeply about this issue and about the fact that we may not cope with the rest of Europe in other aspects of development because of the fact that we are still unaware that our civilization way lies in the pan-European attitude towards various things, but primarily towards human life, and when we hear the words "to kill a man", this should provoke only one wish, to protect that man."

Viktar Sazonau

From the blog at the Belarusian Radio "Racyja". October 4, 2014

Leanid Sudalenka: Ignorant People Can Say That We are "Defending Murderers"

Homieĺ lawyer Leanid Sudalenka, who prepared a complaint to the UN Human Rights Committee on behalf of the death convict Aliaksandr Hrunou in the framework of the campaign, "Human Rights Defenders against the Death Penalty in Belarus", talks about the inefficiency of the death penalty in an interview for the dp.spring96.org website.

– You prepared a complaint to the UN Human Rights Committee for Aliaksandr Hrunou, defendant in a murder case in Homieĺ. One can often encounter such a stereotype – both in the media, and at the level of consumer consciousness – that human rights activists who oppose the death penalty are "protecting murderers."

– If a person is ignorant, he can say that human rights defenders are "protecting murderers." This is not if fact true. For example, when I worked on Hrunou's case, I was a kind of a "bridge" between Hrunou's mother, his lawyer and the UN Committee. I had a power of attorney from Hrunou to work with the UN Committee. But in the national judicial system, I had no right to defend him, and lawyers were engaged instead. I prepared a complaint on behalf of Hrunou to the UN Committee, where I stressed several violations of his rights by the State, including the right to life. The

Supreme Court sent Hrunou's case for retrial. On November 26, the trial began, and clearly, this does not mean that "human rights defenders are protecting murderers".

– So who campaigners for the abolition of the death penalty protect, and why do they do so?

– We, the participants of the campaign "Human Rights Defenders against the Death Penalty in Belarus", do not assess crimes. We oppose the death penalty as a punishment. Life is a value, this is recognized by all countries of Europe, and our country should join these countries, it should follow the way taken by our closest neighbours, Russia and Ukraine. The death penalty in the 21st century is nothing but savagery, and the Belarusian Orthodox Church opposes the death penalty, saying that a person's life is God given and can be taken only by God. Furthermore there are judicial mistakes, we remember cases where innocent people were shot. The death penalty is irreversible, a man's life will not be returned if a miscarriage of justice is admitted. If one could dream and imagine that killing the murderer could return the life, resurrect the person he murdered (the victim), then we could talk about the effectiveness of the death penalty. But nobody will return the life of a murdered person. Our society is not ready to give an answer to the question, "Do we need the death penalty?" It happens, among other reasons, due to the fact that the State does not explain the pros and cons of the death penalty. But this is not just a problem in our society, in countries where the death penalty was abolished many people also advocate for it. The problem of the death penalty is not a question to be decided in a referendum. This is a question that is decided by the elite.

– There is an opinion (also at the household level), that if the death penalty is abolished crime rates will increase, including the number of maniacs and serial killers. How effective is the death penalty in terms of crime prevention?

– If the death penalty were an effective means of restraint of serious crimes, then we probably would not have had to say that in this last year three people had been sentenced to death in Belarus, and this happens every year, two or three people are sentenced. Clearly the comes from the very fact that the use of the death penalty is not a deterrent and does not reduce the number of grave offences for which it is imposed. It has been proved that the killer who takes the life of the victim is not thinking that he, too, will be deprived of life.

– And what about Hrunou's case?

– This man is sick. He should be treated first and then prosecuted. We and the lawyers, therefore, demanded that a new in-depth examination of the state of his mental health should be held. And apart from the death penalty, life imprisonment is also an acceptable punishment.

November 28, 2013

Viktar Adzinochanka: Religious Attitude to Death is not a Matter of One's Feelings, but a Matter of Faith

Religious scholar Viktar Adzinochanka, associate professor of philosophy at the Homieĺ State University, speaks about the death penalty from the standpoint of Christian ethics. Mr. Adzinochanka not only teaches religion, but is also a member of the Belarusian Helsinki Committee, where he is an expert on freedom of conscience.

– Belarus is the only country in Europe that retains the death penalty. I wonder, what considerations made the rest of the European countries refuse from the death penalty? Is there a religious factor? Did they refer to religious arguments?

– European culture is based on Christianity. The death penalty should be abolished in our country as well, but can religion foster it? Yes, it can. Here, of course, we need to turn to Christianity. We know that the death penalty is used in Muslim countries even for such actions as adultery, but this is a different culture.

The Catholic Church is most consistent in its opposition to the death penalty. The Metropolitan Filaret also decisively spoke against the death penalty in our country. He said that a man is given his life by God and another man cannot take it. The Metropolitan of Minsk and Mahilioŭ, archbishop Tadevush Kandrusevich, called to abolish the death penalty, too. But we need to understand that the sense of these statements is clearer for Christian believers, whereas we have few of them. When speaking of religious self-identification, we can say (according to various polls) that almost 90% of Belarusians are believers. But all this has a declarative character. If we

apply such criteria as attending divine services, knowledge of religious texts and norms of behaviour and (which is most important) the wish to implement them, the number of believers will become much smaller. The Christian position makes sense for these people. They understand what is at stake.

– *What defines the position of a true Christian regarding the death penalty?*

– Christianity is based on the belief that we have an eternal life, that life on the earth has its value, but it is not the only one, and that there will be life after death. If people believe that there is an eternal afterlife, some issues get an entirely different meaning. Christianity argues that one needs to love his enemies and not to respond to evil with evil. If one is not a believer, for him these are just good wishes. A believer feels the presence of God in his life and the perspective of the eternal life. Believers have a different attitude to criminals. They also have personalized evil, the devil. And this devil deceives people.

– *Life is given to man by God and another man has no right to take what he hasn't given, correct?*

– The postulate that life is given to man by God and another man cannot dispose of it, makes sense for a Christian. If one believes that there is God and every person is created by Him, one cannot execute another person. This is a sin. Moreover, wishing another person's death and hating anyone is a serious sin, too. Christians must forgive. However, at the same time the Christian church recognizes that the state must fulfil its functions and protect its citizens, and if there is no death, there should be a prison sentence so that criminals would have no opportunity to commit the crime again.

However, when people are told about specific terrible crimes, they immediately feel indignation and say, "These villains must be punished with death", "impaled", or "drowned". I used to hear it myself, attending trials as an observer. These are natural human feelings, people feel sympathy for the victim and the relatives. For example I was at a trial, a boy had killed for the sake of killing, and he was the only child in the family. When I looked at his mother, I felt very sorry for her. I took it very close to my heart. Such feelings are natural, and I think that one would cheating while saying that he has never felt such pity and indignation. However, it is not about feelings. A religious attitude towards the death penalty is a matter of faith, not one's feelings.

People who are robbed of their most loved ones want that the criminals to disappear and to cease to exist, too. But this is a deceitful path, because the loved one cannot be returned to life irrespective of the execution of the murderers. Christianity offers a different position, there is afterlife and we will meet with our loved after death. Innocently killed martyrs go to heaven. What concerns criminals, from the standpoint of Christianity, is that it is very important for them to repent. Killing an innocent person is a crying crime and God punishes the one who doesn't repent in it. However, if a criminal is executed (which is done quite quickly in our conditions), he has no time to understand what he has done and repent. Other countries, such as the USA, still have the death penalty, but several years pass between the sentencing and execution. For this time the man who knows that his life will soon come to an end can understand what he has done.

– *Can an executioner who enforces death sentences be a good Christian?*

– Concerning the people who enforce the sentences, well, this is a function of the State and they have no legal liability for implementing their duties, as this is left to their conscience. How can one just kill? As we know, in Europe people work in slaughterhouses only for three years, after which they are transferred to other work, because their psyche gets deformed. How can a man kill others? How will he live after it? I don't know what these people think and say to themselves. What do they say to their children? They kill, but they implement their duties, execute orders. However, what will happen to them afterwards, is pointedly unclear. In Western Europe, hangmen lived separately. This profession was considered shameful, and no one even shook hands with them.

If we consider an executioner as a person, it is incompatible with Christianity. As to the question whether executioners get to hell or heaven, we cannot know that. It is for God to decide. These people are buried according to the Christian rites, people pray for them, etc. However, an executioner cannot be a bona fide Christian. Nevertheless, we cannot condemn these people. The people who do such things may eventually realize that this is abnormal. There are such cases, but as long as he continues doing it, no matter what he says or how many candles he lights, how many times a week he goes to church, he won't be a good Christian. There are some activities that are incompatible with Christianity.

September 11, 2013

Viktar Adzinochanka: Lukashenka's Statement Influenced the Verdict on Hrunou's Case

Homieĺ resident Aliaksandr Hrunou was repeatedly sentenced to death. The representative of the Belarusian Helsinki Committee in Homieĺ, a candidate of philosophical sciences Viktar Adzinochanka, commented on the verdict issued by the Supreme Court of Belarus, on April 8.

"I attended the trials over Aliaksandr Hrunou as an observer of the Belarusian Helsinki Committee, both the first and the second one. He was twice sentenced to death. To my mind, the existence of an article of the Criminal Code which envisages the death penalty, is abnormal. I am very sorry for the victim, the young girl who was killed by Hrunou. At the same time, I am sorry for Hrunou, who is a man whose life was broken, as his father was killed, and he had to live through it, then he had a conflict with his mother's cohabitant and killed him. He was also registered at a psychiatric clinic. His behaviour is clearly inadequate and it was quite noticeable at the trial.

I believe that the statement of President Aliaksandr Lukashenka made a very large impact on the court verdict, although the court kept to all formal procedures. Lukashenka blankly and clearly called for the death penalty for Hrunou yet before the beginning of the second trial. If the judge made a different judgement it would have contradicted the position of the state authorities. On the other hand, the media publications also played their role, as Aliaksandr Hrunou was described as an asocial, ill-bred and aggressive person. The court observed all formal procedures and issued the verdict in conformity with the present legislation."

The human rights activist stressed that the article on the death penalty simply creates problems. "Of course, a crime must be punished, but it is necessary to introduce other measures. A felony was committed in this case, but the death penalty is an abnormal phenomenon."

April 10, 2014

Priest Aliaksandr Shramko: The Death Penalty Contradicts the Gospel

The Orthodox priest Aliaksandr Shramko, who serves in the church of St. Archangel Michael in the Sukharava neighbourhood in Minsk, reflects on the reasons to abolish the death penalty.

– *As of today, what is the Orthodox Christian view on the death penalty?*

– The complexity of the Christian view on the death penalty is connected to the fact that the Orthodox Church doesn't have a clear social concept, there is no clear ban on the death penalty. However, if we keep to the content of the Christian doctrine, not confining ourselves to formal thinking, we can come to another conclusion. First of all, even in the Old Testament, which has more stringent laws (these…"an eye for an eye", " tooth for a tooth" rules), which are aimed at preventing cases in society (which was in a wild state at the time), when a man who has killed was able to kill again. "An eye for an eye" means a limitation, and not a command, not a call that a man should kill the murderer, but the attempt to prevent him from suffering more harm than has been inflicted by him. Even now one can often hear "let him be impaled", which means that one must be killed with cruelty, not just deprived of life. That's why it was a limitation at that time. Secondly, even in some parables of the Old Testament it is stated that revenge is bad. For example, as the Scripture says, "a vindictive will get the vengeance of the Lord". Vengeance is not supported even in the Old Testament. But the present supporters of the death penalty, although they say it is a just punishment, psychologically advocate it on the grounds of revenge.

– *And what can you say about the New Testament?*

– This is a new era, the era of charity, having quite different moral criteria, aimed at improving the man. The Sermon on the Mount ends with the words, "Be as perfect as your heavenly Father". Although Jesus did not state the necessity to abolish the death penalty, he could not say so because he had come to preach the New Kingdom, the Kingdom of God, as opposed to this world. So he did not give orders to the laws in this earthly realm, he said that we need to grow and grow to the Kingdom of God, we are given the grace to rise to the Kingdom of God. And when we think about the death penalty, we need to think from the point of view of Christianity, and how it will affect Christ's sermon. And in this

sense we can see that the death penalty is in conflict with the Gospel. The whole Gospel, the entire New Testament is built on compassion, and forgiveness. And in the case of the death penalty forgiveness and mercy don't work. Christianity is aimed at improving the man and his free expression of feelings, not just on restraining his instincts, but on breeding the feelings of Christians in him, as Christ lives in the heart. This is how it is in New Testament.

– *Advocates of the death penalty say it's necessary, as it makes people afraid to commit crimes.*

– But this is again at odds with the Gospel. Because the fear of God is one thing, and the fear of a man leads to the oppression of the person, which leads not to the free expression of a person, but to its closure and conservation. That's why if we look from the Christian point of view, we won't see the death penalty in the perspective of the Kingdom of God. Therefore, we will proceed from the fact that from the viewpoint of the New Testament there is no place for the death penalty. When the disciples of Jesus wanted to punish the guilty, they asked, "Lord, do you want to call fire down from heaven and destroy everything, as Elijah did?" He rebuked them, and said, "I have come not to destroy men's lives, but to save them". So it is our responsibility to think about, and the salvation of human souls.

Sometimes supporters of the death penalty draw the argument that the most important thing is to save the soul, not the body, they say that even if a person is killed unjustly, the soul will be saved, for he is an innocent casualty. But the Church is against suicide, against euthanasia, against anything that interrupts a person's life, because God has given the man his body and life on earth. Earthly life is just given to man in the perspective of the eternal life, so that he would have an opportunity to come to God during the earthly life, to evolve. And here we cut this evolution. They say that a person can repent for three minutes. Yes, it can take even three seconds, as in the case of the robber on the cross. But it may also take ten years. It is necessary to give each individual an opportunity to repent, as God gave people the opportunity to save their souls.

In today's society there are a lot more opportunities to restrict the offender. Ancient societies didn't have such opportunities, as the penal system wasn't developed that well. At present people have the opportunity to live in isolation from society. Cruelty, which was typical of ancient societies,

is declining gradually thanks to Christian education. Human rights and respect for the dignity of man, is consistent with the spirit of Christianity. Respect for the individual, as a unique microcosm in which we cannot interfere, crush and destroy it, were all brought by Christianity. As the Apostle Paul says, “Don’t you know that you are the Temple of God?” It is explicitly stated that a human being is the Temple of God, and one cannot simply come and destroy it. Of course, the man may have himself committed the crime and destroyed such a temple, but it does not mean that he has to be treated the same way.

– During Stalin’s purges millions of people were killed, dozens of thousands of priests were shot. Speaking of death, we often forget about the victims of the shooting. How can we separate the concepts of “the death penalty”, and “political repression”?

– Millions of people were exterminated at that time. We need to remember these victims, and not just to pay tribute to their memory, but also to think about the consequences of violence, the desire to destroy, to kill. Now they say, one should receive a deserved punishment for the crime they have committed. During Stalin’s times they thought that everything was done fairly. However, what is a “deserved punishment”? It is subjective. Someone says that murder should be punished with death, others also say it should be done for state treachery or for an idea, or for belonging to harmful social strata. This gradually develops into an attitude that all people can be killed, and destroyed.

– The executioner, hangman. How is his profession assessed from the viewpoint of Christian ethics? There is the commandment, “Thou shalt not kill,” and the executioner kills on behalf of the state”.

– I think that’s painful. I have even read the memoirs of some of these people. This is a terrible job. Naturally, a Christian is unlikely to carry out such work. It is simply impossible to imagine. Because a person cannot be good, cannot have God in his heart, take the communion, and yet kill at the same time. It is unthinkable. As far as a person who kills another person even occasionally (for instance, by knocking them down while driving a car) cannot be a priest. The church doesn’t allow it. The demands here are stricter than to an ordinary Christian. And what if a person not just kills, but does it as a regular job? This is a lost person in general. The existence of such people is detrimental to the society. This includes the judge who passes the sentence, as it is also detrimental to them. This judge, by association of decision, is also a killer. Although he does not pull the

trigger, he orders the kill. Stalin also didn't shoot anyone personally, he just gave instructions to shoot. As such we call him a murderer.

– *What if such a man comes to confession?*

– It depends on the state of the man's soul. Such people haven't confessed to me, and I have never heard about such cases. At this point a question arise. What happens if the judges who issue such sentences, and the executioners who fulfil them, don't come to confession? I even admit that this is so incompatible with Christianity, that Christians cannot tolerate such sentences and should not work as executioners. However, if they issue such a verdict and repent, everything will depend on the individual case. Sometimes it is the complicity in the murder, as the decision to make such a judgement comes from some higher instance. People don't just come to church to confess, they don't just come and go, and in fact it is a long process. If such a man comes to church, no one will reject him. However, everything will depend on how he feels. When he repents, it means that he feels that something is not right.

– *Apart from the religious ones, what are your main arguments against the death penalty?*

– In our country, death sentences are executed very quickly, and it there is little chance that a miscarriage of justice can be corrected within such a short time. The very existence of a potential miscarriage of justice is a sufficient reason to refuse from using the death penalty. We know that there were many miscarriages of justice, especially in the cases of serial killers. Supporters of the death penalty support the ideal variant, as they know who has killed, that he is guilty, and they know what to do with him. If there was no death penalty, there would always be an opportunity to correct the miscarriage of justice.

Our Metropolitan Filaret called for the abolition of the death penalty back in 1996, during the referendum. And this year he has also said that, "We, Christians cannot justify the death penalty, as it is the sin of murder. The life of every person belongs to God. We haven't given the life to a man, and we cannot deprive him of life. Our Lord Jesus Christ sacrificed his life on the cross for the life of each of us. The government re-crucifies Christ each time it punishes its citizens with death."

October 7, 2013

Human rights defender Andrei Paluda: Death convict Eduard Lykau executed

– The Supreme Court upheld the death sentence for Eduard Lykau back in April 2014. However, further information about him has been silenced by the courts and law enforcement agencies. What do you know about this case?

– I would like to stress that the authorities from the very beginning did their best to prevent the public from learning anything about Lykau's case. In November 2013, we learned from our sources that the Minsk Regional Court sentenced a man who committed the murder of five people. Before the news was published on the human rights website spring96.org, neither the court nor the Prosecutor‘s Office or the Investigative Committee had reported nothing, as if the man had stolen a bag of potatoes, rather than committed such a terrible crime.

We never managed to get in touch with Lykau's relatives. The case file described him as a man with no fixed abode. As far as we know, at the time of the court hearing he had a mother, but he did not maintain contacts with her. Moreover, he did not even want her to know about the verdict. In such a situation, it is quite difficult to learn anything about the convict, including the execution.

However, through our sources we learned that he shared a cell with Pavel Sialiun when held in the Minsk jail. Also, we were informed that Eduard Lykau was shot. We do not know when it happened. However, it can be assumed that his sentence was executed along with other death verdicts. Most likely, together with Hrunou (Aliaksandr Hrunou's relatives received notice of the execution in November 2014 – naviny.by).

– Belarus is marked by quite a paradoxical situation. On the one hand, the authorities claim that the death penalty deters crime in the community. On the other hand, information on the cases of death convicts is often silenced.

– Speaking about the argument ‘the death penalty deters crime'. Any professional lawyer knows that this is misleading. Even those who publicly defend the opposite. This issue has been silenced since the Soviet era, when there was a huge amount of unjust verdicts. Also, I think it's the principle ‘only not to make it worse'. We have officials who are afraid to say a word,

so that they don't have to be responsible for it. The case of Eduard Lykau revealed a very important issue. Innocent people were found guilty of the first two murders that he committed. One of them, Mikhail Hladki, was sentenced to eight years in prison.

Lykau's fingerprints were found at the crime scene, but investigators did not even look for him to summon for questioning. As a result, he spent nine more years out of prison, killing three more people, until he was finally arrested in 2011. None of the investigators, prosecutors or judges were prosecuted for this terrible mistake. Thank God, Hladki survived. They initially tried to pin two murders on him – his mother's and brother's. In such a situation, he could have been sentenced to death.

– However, Mikhail Hladki has been unable to obtain compensation for the fact that he was illegally sentenced to eight years. Why do you think the government is so cynical in this situation?

– Mikhail really went through all the courts hoping that he could receive compensation. But it was not a success at all the levels. Pleaded guilty – not entitled to compensation, this is the position of the court described in a few words. They ruined his life, but no one cares. During his time in prison, his 35-year-old wife suffered a heart attack and a stroke. She died three months after her husband was released. In fact, Hladki is lonely. He was a good electrician, but with his criminal record nobody really want to hire him, so he mostly did work on the side. What struck me most, he said if he had received compensation, he would have buy a monument to his murdered mother and brother...

When talking about the government's position on this issue, I think that the courts do not want to set a precedent. Hladki is the only case we know, but how many more of such cases there can be! However, we continue working on the case. Mikhail has complained to the United Nations Human Rights Committee.

– MP Mikalai Samaseika once said that if the West less reproached Belarus for the death penalty, this issue would have long been resolved. Maybe it really worth talking less, so as not to irritate the authorities?

– Pardon me, but this position reminds me of the saying 'I'll have my ears frostbitten to spite my mother'. Belarus should not abolish the death penalty for Europe but for the sake of its own citizens. With regard to the discussion of this topic, in my opinion, it is essential to conduct

a dialogue in the society. We see that information on death sentences triggers strong reactions. Such publications gather a record number of views and comments. Often people express very tough opinions, but at this stage, in my opinion, the main thing is not to silence the issue.

Liubou Kavaliova, the mother of Uladzislau Kavaliou who was convicted in the Minsk metro explosioncase, told me that she was advised not to speak on her son's case. They said that if she knelt in front of the President, instead of contacting human rights defenders, Uladzislau would have never been shot. The parents of the second defendant in the case, Dzmitry Kanavalau, were isolated from society. They are still silent. The result was the same: both were executed. I know that Liubou Kavaliova does not regret fighting for her son until the last moment. According to her, she just could not do otherwise.

– The question of the abolition or a moratorium on the death penalty, in fact, is in the hands of one person – Aliaksandr Lukashenka. His comments on the topic, in my opinion, suggest that he personally is a supporter of the death penalty. And this position is unlikely to be shaken by someone, don't you think so?

– I agree about his personal position. We all remember what he said at a meeting with the Prosecutor General regarding Aliaksandr Hrunou. The case was sent back for retrial to the Homieĺ Regional Court, the sentence had not yet been announced, but the President, meanwhile, had already said that the accused had no right to live on earth. However, I would not be so categorical about the fact that Lukashenka's opinion can never change. We know examples where the most desperate supporters of the death penalty - those who were in charge of executions – eventually declared that the death penalty should be abolished.

– Belarus is once again trying to re-establish relations with Europe. This is taking place against the backdrop of an economic crisis. In your opinion, can the question of the death penalty be resolved under the circumstances?

– It is difficult to give a definite answer. However, I want to emphasize that the question of the abolition of the death penalty is a priority when discussing the human rights situation in the country. The fact that we are the only country in Europe and the former Soviet Union where people are still executed – is a fact very well known and negative for the reputation of Belarus. A few months ago, the Belarusian authorities argued that we had no political prisoners. But

shortly before the presidential election, these prisoners were released. I think everyone understands that it was not a coincidence.

– I'll be direct: in your opinion, can Lukashenka 'sell' the abolition of the death penalty?

– For the Belarusian authorities, the death penalty is a question of political bargaining, so I think that Lukashenka can 'sell' a solution to this issue. We all can see the deteriorating economic situation in the country. Russia is unlikely to be a helping hand in the near future. So they will seek the help of the West. And there they have the question of human rights as a priority.

– This argument is rightly rejected by the Belarusian officials: the death penalty is actively used in the United States, the cradle of democracy.

– I share the indignation of the Belarusian authorities. And in all international conferences I attend I keep criticizing the US position. However, we must not forget that 19 states have abolished the death penalty. In addition, US citizens sentenced to death may await execution for up to 30 years. There were cases when people were released because modern technology helped prove that they had been wrongly convicted of a crime. In Belarus, it takes a very short period to execute the verdict. Uladzislau Kavaliou, for instance, was shot 3.5 months after the trial.

– There are two prisoners on death row at the moment: Siarhei Ivanou, who committed the brutal murder of a girl in Rečyca, and Ivan Kulesh convicted of murdering three people and attempted murder in Lida district.

– I would like to add that jail No. 1 in Minsk also holds Pyotr Ivanik, a Russian citizen who was sentenced to death by a court in the United Arab Emirates for having ordered the murder of his business partner. According to our information, Ivanik will soon be extradited to the United Arab Emirates, where he is likely to be executed. The Belarusian authorities also prefer to remain silent about the case.(after the interview, it became known that Belarus imposed another death sentence in the case of a resident of Vilejka)

– Returning to Kulesh's case. He refused to speak in court. But at the stage of the investigation he fully admitted his guilt on all counts and did not ask the court to commute the death penalty to life imprisonment. If he did not cling to life and is ready to be shot, why should society and human rights activists fight for him?

– We seek the abolition of the death penalty not for a specific person, but for the whole society. Mikhail Hladki also once confessed that he had killed his brother, though in fact it was done by Lykau. And if the version of the investigation had gone in a different way, perhaps he would also confess to murdering his mother. And this is a potential death sentence. Meanwhile, in the history of Belarus, unfortunately, there have been cases when innocent people were shot. The most striking example is the case of the Viciebsk maniac Mikhasevich.

– Since 2015, suspects or defendants may enter into a pre-trial agreement on cooperation, which ensures the reduction in the maximum possible sentence. Could this affect the reduction in the number of death sentences, in your opinion?

– Too little time has passed to assess this provision. We have quite a few progressive laws, and above all – the Constitution. However, they are often violated. Therefore, the time will show how the institute of pre-trial agreement will work. I want to note that giving oneself is a mitigating factor in sentencing. But in Kulesh's case, for example, this had no impact on the verdict. Although the lawyer stressed that if his client had not told about the murder of two saleswomen in Lida, perhaps those responsible in this case would still be searched to this day. At the time of Kulesh's arrest, more than a year had passed since the commission of the crime.

– How do you perceive criticism on the Internet? After all, you are often referred to as the 'defender of murderers'?

– I defend human rights. And I try to approach every case professionally. You have to understand that people who have been sentenced to death are not aliens from another planet, but the citizens of our country who live next to us. And we always have to analyze why a man chose to commit a brutal crime. If you look at the portrait of a death convict, most often this is a person who has previously been convicted. This raises the question in our prison system. What do the people face in prisons, if they are released with even more violent behavior?

In addition, the problem of alcoholism is very acute. Most murders are committed in Belarus while intoxicated. Sending Kulesh to death, the government fights crime in the society, on the one hand. But on the other hand, it pours alcohol, by allowing the sale of alcohol at night before the elections.

Death row secrets

The topic of the death penalty is still a dark secret in Belarus. The public knows very little about the conditions of those held on death row. We only know that after the verdict they are for a while imprisoned in a jail in the center of Minsk. Therefore, human rights defenders are always trying to glean the necessary information. Representatives of the campaign "Human Rights Defenders against the Death Penalty in Belarus" have gathered memories and testimonies of former prison staff and former inmates, their family members, part of which has been used to prepare this publication. For obvious reasons, these people asked not to disclose their names.

Death convict's last refuge

Jail No. 1, also known as Valadarka, which is home to those awaiting execution, is located in the building of what used to be the Piščala Castle. A detailed description of the place can be found in Slavamir Antanovich's book Prisoners of the Piščala Castle. Earlier, death convicts were held on the ground floor of the old castle. One can still see special low windows. Now the door to this part of the castle is locked, and the phase is closed. It is noteworthy that the rare photos of the Piščala Castle, which are open to the public, display this part of the castle. One can see the cells, each of them is designed for two inmates, and the walls are dark green. This is what death row used to look like.

A repeat offender M, who has many times been in this jail, is emotional about his mental state after he saw the prison's death row:

"In the old death row, where I was at the time it was run by Alkayeu, and after it, the atmosphere is grimmer. There was a feeling that it wouldn't be surprising if the door were opened by Stalin himself. The atmosphere is so saturated with emotions of death that one can nearly sense the presence of a metaphysical gate to hell."

However, the cells are no longer used to hold the death convicts. It is here that the investigators interrogate the prisoners. The old building also has a yard where the inmates are taken out for walks. To reach the yard, the

prisoners have to walk underground. Only female prisoners can see the daylight when crossing the yard.

The new building, which holds untried prisoners and death convicts, is located on the site of a former stable, part of which now has an additional storey.

Testimony by one of the prison staff:

"The new building has three cells for death convicts. They have the following numbers: 102,103 and 104. The dimensions of the cells, like most in Valadarka, are 6 to 3 meters. All of them are equipped with video surveillance devices to continuously monitor the inmates. This is the only place in Valadarka, where surveillance cameras are located inside the cells. The other cameras are installed only in the corridors. At any time of the day or night death row is guarded by a sentry that follows the screen.

What do the new cells look like? Two-thirds of the walls are painted beige, and the ceiling and the upper part of the walls are white.

The toilet is like in trains, a pocket, the fence is shoulder-high, but the camera shows only part of the body. Next to it is the sink.

The ceiling, which is about 5 meters high, has a light bulb. The light is always the same, it's white and is always on. The electrical sockets on death row are turned off at specified times. There is a radio that is on all day long.

The bench and table are welded to the floor. Above the table, there is a shelf with their letters and the case file. The berth is very low, about 15 cm from the floor.

Personal items, hygiene products, books, and allowed things are stored in a common locker in the hallway. If a death convict wants to read a book or smoke a cigarette, he should ask the guard who will give them the cigarettes or books through a special hole in the door.

The cells are always warm, because of a nearby boiler. This is the easiest way to escape from but the prisoners do not know about it. It's the oldest building, raw and damp. One should just kick the wall and it seems that these walls will collapse.

The death convicts' names and criminal articles are written on the door."

Here's an interesting reflection on the beige color of the walls by a person named S, who used to be held there and even wrote to the prison psychiatrist about this:

“Please examine and express your opinions about the impact on the psychological state of a person created by the color in an enclosed space, comprising 50% of beige with a bright yellow accent, 40% of white and 10 50% of gray.”

Another witness named K describes in detail the windows on death row:

“From the inside the windows has narrow-meshed bars preventing the prisoners from reaching the window. Behind the glass are the so-called ‘eyelashes’ (sun blinds that cover the bottom part of the window and only allow the prisoner to see the sky) that are covered with fine-meshed netting from the outside. The dim light coming from the window allows the prisoners to tell whether it’s day or night. The windows of these cells overlook the Piščala Castle.”

When the door opens...

Death row prisoners are subject to maximum-security rules and restrictions associated with them.

Testimony by a former employee of the detention center:

“From the very beginning, they face maximum security restrictions. It’s not written down, but in fact it’s exactly the same. They receive a strip [a special label] in their case files: inclined to escape, attacks on the administration, committing suicide. Because of this, the attention to them is immense. The rules prohibit them to lie or sit on the berths from 6 am to 10 pm. They usually walk around the cell all day long. The death convicts have to wear special clothes. When they sleep, they should keep their hands above the blanket, no matter what their position is: on their back or on their stomach.

Death convicts are never taken out for a walk. This is prohibited by the law. Yet, there is a small yard in the new building. The death convicts are usually brought there after lunch for a while, because at that time the walls in their cells are checked with wooden mallets. Sometimes, they can be locked in the shower, but most often they are kept in the yard. Each time a death convict leaves the cell, for example, to go to another building, there’s additional guarding by dogs. This requires the presence or an order by the facility head.

In accordance with the rules, each move is subject to the same restrictions faced by life-term prisoners – all those under maximum-security rules. They must hold their hands above the head, as they are escorted with their heads down.

The doors in these cells are beige and have a peephole and a small window to serve meals. The door is opened only in the presence of the facility head or his deputy. It is very rarely that someone other than the chief of the detention center is present at the opening of the door.”

This evidence is confirmed by the former head of the detention center Aleh Alkayeu in an interview for the campaign “Human Rights defenders against the Death Penalty in Belarus”.

“In order to open the door to death row, one has to invite the prison chief. The cell cannot be opened without his order. No one was ever beaten in the presence of the chief. The chief, it‘s me. To take the prisoner out of the cell, an order from the chief is required. At all other times, they only open the small window. You can’t beat or kill anyone through the window. The cell is also opened during inspections: the controllers check it with wooden mallets and batons. It happened every day from 1 to 2 pm on the orders of the chief. The door is opened to take them out to the bathroom, as well as for the execution of the sentence, they are also sometimes escorted to see a visitor. They know about the meetings, as a rule; they are notified beforehand that the meeting will take place; they also write to their lawyers. And all the other procedures that are prohibited by the rules terrify them.”

In 1998, human rights defenders of Viasna received letters of Ivan Famin that were written on death row and left the prison walls through ‘prison-mail’. It also describes in some detail the conditions of detention on death row: “It’s pure hell in here... They beat me for everything... They beat me for writing to the prison hospital and to the priest so that he could come to confession. And they beat me for nothing, if they are in a bad mood.”

Meals on death row is no different from those served to other prisoners. The dishes are passed through a small window by a guard. All dishes are made of orange plastic, just like the cups and the spoons. The prisoners have to wash the dishes themselves. Between the meals, the dishes are stored on a special shelf in the hallway near the sentry.

Hope is the last to die

After sentencing, the death convicts have the opportunity to appeal the verdict to the Criminal Board of the Supreme Court. Almost all the convicts use this right, many thoroughly prepare for the hearing, which leaves them a feeble hope for life.

During the time, the death convicts are held in jail No. 1, or with a few exceptions in the KGB jail. They are given special clothing, which they must wear at all times.

According to one of the former employees of Valadarka, “the uniform is either blue or gray with the letters IMN on the back” [‘isklyuchitelnaya mera nakazaniya’, ‘exceptional punishment’]. The inscription is either embroidered or painted or written in chalk.”

Volha Hrunova, the mother of Aliaksandr Hrunou who was executed for the murder of his friend, received by mail her son’s prison uniform and shoes in which he was on death row. The parcel was labelled ‘to be called for’. The clothes consist of several items: a hat, shoes, a blue-gray jacket and matching pants. The jacket has white painted inscription ‘IMN’.

When preparing for the trial, the prisoners can meet with their defenders. However, this happens in a different building. A former defendant S tells about it:

“When death convicts are brought, for example, to a lawyer, this is a completely separate procedure and a ritual.

At this time, all other movements of prisoners in jail are prohibited. They are escorted along the shortest path across the street. At this time, the prisoners are prohibited to look out of the windows. But the prisoners are always aware that in this case it’s either a death convict or a criminal boss that is being escorted out there. In the course of this action, all the doors are opened and closed automatically. The death convict is quickly escorted through the corridors. He flies like a bird, he does not even have time to look around.

The office where lawyers or investigators meet with the death convicts has barred windows, but the handcuffs are removed during the meetings. The guards remain in the corridor.”

After the appeal has been considered in the Supreme Court, the death convict has only an illusory chance for salvation – the President’s pardon. At the same time, the Pardon Commission considers all cases of death sentences, regardless of the prisoner’s petition.

From that day on, they can only walk along the corridor on death row to be executed. And there are nearly no exceptions at all.

“However, in April 1999 Viasna received a letter from Siarhei Pratsirayeu. He wrote from a prison in the town of Hlybokaje. His death penalty was

commuted to life imprisonment. It is believed that Siarhei Pratsirayeu was the only death convict to be pardoned by the President before 2001."

The moment of the 'rule of law'

Peculiarities of executing death sentences are described in several sources. Aleh Alkayeu, former head of the detention center No. 1, was one of the first to tell about it:

"Through the underpass, employees of the special squad began to take out the convicts one by one. They were dressed in striped clothes and had felt slippers on. Their hands were tied behind their backs. They trembled either from cold or from fear, and their crazy eyes radiated such a real horror that it was impossible to look at them. Then the procedure of reading out the President's decision began. The prosecutor routinely specified the personal data of the person standing in front of us, then as usual he announced a decision to refuse pardon...

...The convict's eyes are bandaged so that he could not be oriented, and he is taken to an adjacent specially equipped room, where the executioner is waiting with a loaded gun. At a signal from the executioner two members of the squad lower the convict on his knees before a special bullet-stopping shield, after which the executioner shoots him in the head."

What happens then is told in detail in Slavamir Antanovich's book Prisoners of the Piščala Castle, which describes the case of Aliaksandr Mezin executed in 1991:

"The doctor was the first to enter the execution room, all the rest followed him. Mezin was lying on the floor with his face down, stretched to the entire length of his big body, he was still alive... Someone suggested another shot, but the doctor said that this was no longer necessary. Inhaling the gun smoke, we exchanged empty words. Only the executioner's assistant said: "You know, he said before his death, 'My heart is still beating'."

The execution was documented in a report.

Mezin's body was taken to the mortuary in one of the Minsk hospitals where the doctor took the bullet out of the head and issued a death certificate. Using the certificate, the officers of the firing squad received the following day a coffin in which they buried the executed prisoner next to the homeless and other unidentified persons."

An employee of the Valadarka prison told human rights defenders about the signs that help the guards and the inmates know the exact time of executions. Moreover, the death convicts can tell who is coming to them by their steps.

"When a death sentence is executed, all the guards are removed from jail, usually at night, so that the prisoners could not learn about it and arrange an escape or rebellion. Everyone is forced to leave except for one assistant chief on duty. It is most likely that all the employees are kept in the yard.

Every employee knows that when they are removed from their sentry, there's an execution in progress, since they can only be removed on one occasion.

They shoot them in Valadarka, it is very convenient. The bodies are transported to the morgue, and then to the North Cemetery and cremated."

I should be added that human rights activists do not share this view, as there are alternative evidence that the executed prisoners are buried in numbered graves for unidentified persons so that they could be exhumed, if necessary.

Skydiving without a parachute

Almost all the death convicts write to the President to ask for pardon, although having little hope that he will keep them alive. Today it is known that Aliaksandr Lukashenka has pardoned only one person sentenced to death.

What happens to the prisoner and his mind in a state of constant pressure in anticipation of execution?

According to the testimony of prison staff, many death convicts attempt to commit suicide. It was once said in an interview with the prison's former head Aleh Alkayeu. He recalled a time when two persons sentenced to death were held in the same cell.

"Death is always terrible. Even a natural one. But when life is taken by other people, death becomes infinitely terrible. And never believe those who complain about a life sentence, saying that it would be better if he was shot. The right to voluntarily leave this life can never be taken from a human being. Even in prison, there are dozens of ways to commit suicide. But suicide is a rare case in prison. I remember only one case when two convicts hanged themselves in turn on one rope just a few days before the

execution. Having calculated the frequency of sentry's walks, which was about 8-10 minutes, one of them hanged himself. The other one had time to take him down, put the body on the bed and lay down himself. Then, after the guards had passed the cell, he climbed a chair and put his head into the loop, where he was later found.

People on death row are in a constant state of nervous tension. As noted by Aleh Alkayeu, it's like skydiving without a parachute, where there is a slim chance of falling on a haystack. Naturally, during the execution the tension reaches the upper limits the human body can endure:

"It's difficult to determine the level of madness, but inadequacy and prostration can be observed in almost each of them. The convicts tend to be humble and completely weak-willed. It is difficult to single out some individual traits. I remember only a few people who look more or less aware of what was going on before the execution."

During his stay in jail, death convict Ryhor Yazepchuk lost his mind. According to the prison staff former prisoners, he was 'lying on the floor, rolling from one corner of the cell to another and singing songs, but they did not try to calm him down."

Vasil Yuzepchuk, Ryhor Yazepchuk's distant relative, who was also sentenced to death, was illiterate. He was taught to write and read by another death convict Andrei Zhuk. The latter sent several letters to human rights defenders. Thanks to him, it became known that Yuzepchuk was with him in the same cell.

"Andrei Zhuk's letters said that his cellmate Vasil Yuzepchuk, who was almost illiterate, tried to overcome the horror of death singing from time to time a line from the song "I'll sit in a convertible and go away somewhere...". Although you cannot go anywhere, you can just 'depart under the sentence'."

Eduard Lykau was characterized as a very impulsive person who used a lot of gesturing when talking to other people.

"Lykau was always saying something, waving his arms. Unlike him, his cellmate Sialiun was very quiet. He was the quietest and most peaceful prisoner ever. But from time to time, they had to take turns, then Sialiun got up and walked across the room, while Lykau was sitting. For convicts, smoking and walking are the only entertainment. They could also sit down and write a letter at a small table."

Another death convict, Aliaksandr Hrunou, tried to cut himself, after his cellmates had been executed:

"There was an accident in Valadarka. All prisoners are allowed to shave, for that they are given disposable razors. A guard gave him a razor and did not watch him shave. And then he noticed that Hrunou began to dismantle the razor. And he could not react quickly, as he had to open the cell and prevent it. It took time to notify the prison head, and he had managed to take out the blade and was going to cut his hands and neck, but when the staff broke into the cell he threw the blade into the sink. Later they invited a plumber to take out the blade."

Sometimes, testimonies by the prison staff are inconsistent, and it is rather difficult to establish the exact chronology, but here's what witnesses told about the convicts held in the new cells.

"Sialiun and Lykau were shot at the same time. There was a time when Ryhor Yazepchuk was taken out, probably to be shot. Then the others were put in one-man cells. Yazepchuk was then in cell No. 102. Then Hrunou and Sialiun were put in cell No. 104. After Hrunou's neighbors, Lykau and Sialiun, were gone, he tried to commit suicide."

These three isolated cells on death row, which are now located in the new building, have several other cells adjacent to them. Next to the death convicts, there are several cells for those serving life sentences, as well as some dangerous criminals.

Human rights activist Andrei Bandarenka is one of the recent inmates of this building. Before he was transferred here, the cell window had been protected by a fine-meshed net, and a lock was installed in the small window in the door. All this was done in order to prevent Bandarenka's contacts with other prisoners, as well as to increase psychological pressure on him.

Nearby is the cell that used to hold one of the key Belarusian criminal bosses Dzmitry Haleyeu.

"I want them to shoot me"

Human rights defenders received a letter from death convict Pavel Sialiun, which was written during his detention in the Valadarka jail. This, as he was described, outwardly calm and quietest of all prisoners, wrote in two languages when awaiting execution. Below is a poem in Russian [with a word-for-word English translation], but he also sent several letters in Belarusian.

Я хочу, чтоб меня расстреляли, Чтобы пулю в затылок пустили. Никогда вы, ублюдки, не знали, Грязной лапой кого погубили. Не осталось во мне человека. Из-за вас превратился я в зверя, В душегуба, убийцу и зека! Это ваше взошло во мне семя. Я своих палачей презираю, Мне плевать на судью, прокурора. Свысока я за тем всем взираю, Что запишут в листы приговора. Не меня посадили вы в клетку, А свою обнищавшую совесть! И на ней вы поставите метку, Когда выстрелом кончите повесть!	I want them to shoot me, To let a bullet in my head. You bastards have never known Who you've killed with your dirty paw. There's nothing of a human being in me anymore. Because of you, I've turned into a beast, A murderer, a killer and a prisoner! It's your seed that has sprouted in me. I despise my executioners, I spit on the judge and the prosecutor. I look down on everything To be written in the verdict sheets. It's not me you have put in a cage, But your impoverished conscience! And you are going to label it, When a shot will finish the story!

At first glance, it seems that this is a poem by a man obsessed with hatred, as it is full of resentment and anger! But it is necessary to stop and think about this: why did he write this? Did he live outside society? Didn't he live next to us? Pavel Sialiun, who was executed in the name of the state, is also part of our society, part of ourselves. Apparently, society should remember that.

This was also noted in a recent interview by the coordinator of the campaign "Human Rights Defenders against the Death Penalty in Belarus" Andrei Paluda:

"You have to understand that people who have been sentenced to death are not aliens from another planet, but the citizens of our country who live next to us. And we always have to analyze why a man chose to commit a brutal crime. If you look at the portrait of a death convict, most often this is a person who has previously been convicted. This raises the question in our prison system. What do the people face in prisons, if they are released with even more violent behavior? In addition, the problem of alcoholism is very acute. Most murders are committed in Belarus while intoxicated. Sending Kulesh to death, the government fights crime in the society, on the

one hand. But on the other hand, it pours alcohol, by allowing the sale of alcohol at night before the elections."

One of the death convicts, Aliaksandr Hrunou, who briefly shared a cell with Pavel Sialiun, after shooting Selyun and Lykov was for a time transferred to cell No. 73 located on the second floor of so-called mental hospital [a building for persons convicted of minor crimes]. This happened after Hrunou's sentence was overturned by the Supreme Court and case was sent back for revision. This was an unprecedented thing – a man walking out of death row. However, the death sentence was later confirmed. His cellmates say that he was always quiet, did not talk much, paid no interest to anything and always kept his things packed in a bag, as if he were always ready to go somewhere.

Valadarka still remembers the sensational case of the terrorist act in the Minsk subway, followed by the execution of two men, Dzmitry Kanavalau and Uladzislav Kavaliou. It was initially reported that they were constantly held in the KGB jail, but as it became known later they were brought to Valadarka for a while, apparently to be executed here.

"Kanavalau and Kavaliou were in Valadarka for one day. They were brought here just for an hour. Some of the jail staff still believe that the executed men were innocent."

The topic of the death penalty remains relevant in the Belarusian society. Information on executions is still classified. Family members do not know the time or the place of convicts' burial and cannot visit their graves. On the other hand, the relatives of the victims of criminals who often ask for the death penalty for the murderers of their loved ones do not receive adequate psychological assistance from the state, and their desire for revenge does not help to overcome the severity of the loss.

Belarus continues to use its Soviet legacy – the death penalty. Given the country's attempts to improve relations with Europe, executions at the heart of the continent look more than absurd today.

Part 4. Death Penalty in the Review-Chronicle of Human Rights Violations

Ten Facts about the Death Penalty in Belarus

Belarus remains the only country in Europe and the former Soviet Union, where death verdicts are implemented. The newspaper "Salidarnasć", tried to find out how the attitude of the Belarusians has changed, how many people have been convicted in the past 20 years, and who was been pardoned by Lukashenka.

1. The Referendum of 1996 was Yarmoshyna's Debut

The death penalty in Belarus was legitimized by the referendum that was held in November 1996. According to the official data of the CEC, 80.44% of votes were cast against the abolition of the death penalty. "The extent to which the official data can be trusted is a separate question. It's worth noting that this referendum was Lidziya Yarmoshyna's debut as the chairperson of the Central Election Commission," says the analytic material of the Independent Institute of Socio-Economic and Political Studies.

16 years after the referendum, the former chairman of the Constitutional Court and Prosecutor General of Belarus Ryhor Vasilevich said in an interview to "Euroradio":

– *The results of the voting at that referendum were advisory, and a different decision could well be taken. However, the head of the state and the Parliament represent the people, the opinions of every citizen is very important for them and influences their decisions.*

2. Sociologists: 40.7% of Belarusians are Against the Death Penalty

Since 2008, the Independent Institute of Socio-Economic and Political Studies has regularly conducted a survey on the attitude of Belarusians and the death penalty.

In September of 2012 it interviewed 1,502 adult respondents face to face. The possible error doesn't exceed 0.03.

Interestingly, 57.3% of those who oppose the abolition of the death penalty support Lukashenka. As noted in the analytic material of IISEPS, the problem of retention of the death penalty is on the periphery of the public opinion. In June of 2012 only one respondent included it in the list of the most important issues that should be decided by the government of Belarus.

3. Lukashenka's, "I will Never Introduce a Moratorium Myself"

In his annual speech to Parliament and the people in May 2012, Lukashenka answered the question of MP Samaseika regarding the death penalty and the possibility of introducing a moratorium on it.

– *"I will never introduce a moratorium myself,"* said the head of the state. "*I know the people's moods."*

Lukashenka said that as a president, he should do what society wants:

– *If you are a scoundrel and a bastard and make an offence, be prepared to answer for it. Although, maybe, society has come to a moratorium.*

At a press-conference in December 2011, Lukashenka assured the journalists that all death sentences passed through his heart.

He stressed that the materials of these criminal cases are always brought before him.

– *I always demand that they attach what the man has been sentenced to death for.*

As noted by him, photos are obligatory attachments to the documents.

– *I get scared, they break into an apartment, kill the whole family, rape young daughters, and then, I beg your pardon, cut them into pieces, throw them into the bath and flee. Then they are detained and sentenced to 25 years. Well, I have the same feeling as you do, what if they were cut into pieces also, and thrown in the bath too.*

If there is the slightest clue that this may not be wholly so, he gets a life sentence. So, what claims can one have to us?

4. Who was Pardoned by Lukashenka?

Human rights activists are concerned with the closeness of the results of the activity of the Commission on Pardons and the decisions of the President regarding the cases of death row convicts.

At the moment, we know only about one decision to pardon a person sentenced to death. Dzmitry Kharkhal spent more than a year on death row in remand prison No. 1 in Minsk. In June 2003 his sentence was commuted to 15 years in jail.

Dzmitry told his lawyer that while he was on death row the prison guards often beat him and forced him to say a, "great thanks", after each beating. According to the lawyer, Dzmitry was lead out of the cell several times and was forced to crawl to the bath, but wasn't allowed to bathe.

The authorities didn't investigate these allegations of ill-treatment.

5. The Number of the Executed is not known to the Public

– *The horror of the death penalty is not only in the fact that the state is killing people, but also in the secrecy that the state makes out of the very execution of the sentences,* so says the coordinator of the campaign, "Human Rights Defenders against the Death Penalty in Belarus", Andrei Paluda.

Human rights defenders say they can draw only the statistics of the issued death verdicts. 324 people were sentenced to death for 1990-2011.

According to the Department of Corrections of the Ministry of Internal Affairs, the number of death sentences has decreased in recent years. At the end of the 1990s courts handed down 30-40 death sentences a year. In 2000s the situation was as follows: 2001 - 7 sentences, 2002 - 4, 2003 - 4, 2004 - 2, 2005 - 2, 2006 - 9, 2007 - 4, 2008 - 1, 2009 - 2, 2010 - 1, 2011 – 2.

6. What Crimes are People Sentenced to Death for in Belarus?

Under the Criminal Code, the death penalty may be imposed for the preparation and conduct of a war of aggression (Art. 122), a terrorist act against a representative of another state (Art. 124), international terrorism (Art. 126), genocide (art. 127), crimes against the security of mankind

(Art. 128), the use of weapons of mass destruction (Art. 134), violation of the laws and customs of war (Art. 135), murder (art. 139), terrorism (Art. 289), high treason (Art. 356) conspiracy or other acts committed to seize the state power (Art. 357), a terrorist act (Art. 359), diversion (Art. 360), the murder of a police officer (Art. 362).

The death penalty cannot be applied to the persons who committed crimes under the age of 18 years of age, and to the men and women who reached the age of 65 years, before the delivery of the verdict.

7. The Mother of a Death Row Convict Buried a Thing that Belonged to Him

Relatives of the convicts received the following answer from the Ministry of Internal Affairs to all their appeals: "In accordance with paragraph 5 of Article 175 of the Criminal Code, bodies aren't issued to relatives after the execution, the place of burial is not reported".

The relatives aren't informed about the date of execution and dashes are put in the "cause of death" graph in the death certificates that are issued to them.

– As the state meticulously hides this information, it gives rise to the legends that organs are taken out of the bodies of the executed for further transplantation, or that they are used as workers at uranium mines, although no one has even heard about such mines in Belarus, notes Andrei Paluda.

Friends and relatives of the executed are deprived of the opportunity to bury them and then visit their graves.

As Andrei Paluda said to "Salidarnasć", the mother of a death row convict buried one of his things at the cemetery instead of him, and put up a monument so as to have a place where she could commemorate him.

If a person who is sentenced to death commits a suicide, dies of an illness or is killed in prison, the body is issued to the relatives for burying.

The former head of the Minsk remand prison Aleh Alkayeu told a story of two death row convicts in an interview for "Amnesty International". Being held in the same cell, both of them decided to take their lives by hanging themselves on one rope in turn. The guard noticed what was going on there too late and failed to save them. The bodies were passed to the families two days before the appointed date of the execution.

8. An Illiterate Man was Sentenced to Death

In 2009, the court sentenced to death Vasil Yuzepchuk, a 30-year-old resident of the Drahičyn district. The man was convicted of committing a series of murders of elderly women.

He filed a petition for clemency to the President. He asked to save his life, insisting that in the future circumstances could be discovered that would prove his innocence, but it would be impossible to correct the judicial error after his execution.

– *"As stated by the lawyers who defended Yuzepchuk, the verdict of the Brest Regional Court is based on assumptions, there is no direct evidence and the accusation is based mainly on testimonies of police officers,"* - Andrei Paluda said to "Salidarnasć". "*There is evidence that Yuzepchuk was inflicted bodily injuries in custody. According to the conclusion of the expert commission, the convict had a mild mental retardation, a poor orientation in the environment and was illiterate. That's why there are serious precautions that the guilt of the man convicted to the death penalty was not proven adequately."*

Mr. Paluda went to the village where Vasil Yuzepchuk lived and where his relatives still live.

– *He comes from a large Roma family. The living conditions there are terrible. They have to beg to live. Generally speaking, Vasil started learning to read and write while being held in the same cell with Andrei Zhuk. In fact, his cellmate, who was sentenced to death as well, became his teacher.*

I don't know how Yuzepchuk signed the minutes of interrogations during the investigation. Perhaps he could put a cross, or they somehow taught him to write his name.

After the execution of Yuzepchuk, the killings of elderly pensioners continued in the Kobryn district. They were killed in the same way, which, according to the court, was used by Yuzepchuk.

9. The Owner of the Apartment Called the Police Six Times before the Murder, and Nobody Came

In 2010, Hrodna Regional Court sentenced to death Andrei Burdyka and Aleh Hryshkautsou.

They were found guilty of killing three people: a 65-year-old owner of an apartment, his daughter-in-law, with whom Burdyka had had an affair, and a friend of the daughter-in-law.

The woman was killed out of jealousy, and supposedly all of the others, as witnesses.

Burdyka and Hryshkautsou had been drinking for a week before the murders. On the eve of the tragedy the elderly owner of the apartment tried to calm his daughter-in-law and her friends, who had apparently created scandalous activity. He called the police six times and asked them to come. However, no one came. As it was found out at the trial, these calls weren't even registered in the appropriate register by the duty policeman.

Andrei Burdyka's mother believes that the murder might not have happened if there had been any supervision over her son on the part of the law enforcement agencies.

– *"Andrei was released from a correctional colony, the remaining term was replaced with correctional labour for him. However, nobody demanded that he check with the police,"* - said the woman to human rights defenders from "Viasna". *"Nobody phoned, paid any interest or exercised any control even once for the 1.5 months he was at large. If he had been made to be at home from 10 p.m. to 7 a.m., as he was supposed to be with the sentence, this might have not happened.*

– *"Of course, this does not justify the killers*," argue human rights activists. "*However, the death penalty doesn't solve the issue. The Belarusian authorities refer to the fact that the death penalty allegedly deters crime. However, it is far from being true: a drunk man in a state of aggression can hardly think at all, much less ponder whether he will be punished with death for his deeds.*

10. Letters from Death Row

Human rights activist Iryna Toustsik maintained mail correspondence with Andrei Zhuk, who was found guilty of killing two cash-in-transit guards, who had been carrying money to pay salaries to workers of an agricultural enterprise.

– *"It was a short correspondence, which stopped after the rapid execution,"* says Iryna. *"In his letters, Andrei Zhuk reflected on the extent of fairness in*

the death penalty. He drew examples of when some people were sentenced to 25 years in prison, others, for life, and he, to death, for similar crimes. Nevertheless, Andrei held quite firmly, knowing about his sentence, but didn't justify himself and was ready to suffer any punishment. Two children were left after him. One of them was born when he was already in prison. Andrei never saw him, and he wrote he would have never committed the crime had he thought about his children and family, and that he had had no plans to kill anyone, but did it out of fear."

In his letter, Andrei Zhuk states that, "expressing his standpoint, the Minister of Justice says that while considering this issue we can ask about the opinions of the victim's relatives. Emotions and vengeance are not justice. In this case, there is no need for any courts, as they should just give the relatives weapons and let them lynch the perpetrator."

November 20, 2012

The Death Penalty in the Review-Chronicle (1998-2015)

1998

About 70 people have been sentenced to death in Belarus over the past two years. Most of them filed clemency petitions to the President, none of which were granted. Meanwhile, there are facts that prove that Belarusian law enforcement agencies don't always work honestly, accurately and efficiently.

In February 1998, Halina Tsiarentsyeva applied to the Human Rights Center "Viasna-96", asking for help. She asked for help saving her son, Ivan Famin, from death, who had been sentenced to the exceptional measure of punishment, shooting. There are facts that suggest that Famin incriminated himself in the course of the investigation, taking the blame for someone else's deeds, whereas the real killers managed to intimidate him and thereby save their lives. However, neither the investigation nor the court paid attention to the contradictions in Famin's case. The appeals of his mother to the Supreme Court and prosecutor didn't bring any results either.

The following death row convicts appealed to the reception room of the Human Rights Centre "Viasna-96", asking to protect their right to life:

1. Ivan Famin, who was sentenced to the exceptional measure of punishment, shooting, by the Minsk Regional Court on December 9, 1997. Using threats and blackmail, his accomplices A. Shatkin and S. Zharau forced him to take the blame for two murders. The expert examination didn't find any bloodstains on his clothes, whereas the clothes of A. Shatkin and S. Zharau were bloodied. The investigators didn't hold investigative experiments, and didn't question witnesses. There were also other violations of criminal procedural laws. During the investigative activities, Ivan Famin was subjected to torture. In particular, he was beaten with a baton and kicked with feet, a gas mask was put on his head and his oxygen supply was blocked, losing consciousness three times. The investigators forced him to sign documents that he wasn't even allowed to read.

2. Siarhei Pratsirayeu. Case № 129684, was investigated by the Žlobin City Prosecutor's Office. The lawyers of the Žlobin City Bar and Minsk Regional Bar are indignant at the blatant forgery of the investigation materials and other violations of the Criminal Procedure Code of the Republic of Belarus.

3. Ihar Skliarenka. His presumption of innocence and right to legal defence were violated. There are witnesses who state that at the moment of murder, I. Skliarenka was not even at Svietlahorsk (the crime scene), in Žlobin. The court ignored these testimonies.

4. Mikhail Hlushonak signed a confession of murder under pressure from the investigator Misiukevich, who knew that Hlushonak had been taking drugs since 1990. The investigator offered Hlushonak a confession to the murder in exchange for drugs. Hlushonak refused, after which the guards of the Červień remand prison hit him in the kidneys with a baton. Then there again came the investigator who brought drugs. He said, "If you refuse to sign, I won't give you these pills and they will kill you here". As a result, Hlushonak signed the confession. The investigator also told him, "If you, Hlushonak, try to refuse from your testimonies at court, you will be shot while trying to escape after the trial". Hlushonak told about this during the consideration of his appeal at the Supreme Court, but the court left the verdict unchanged.

5. Anatol Kapustsin was sentenced the death penalty under the property confiscation section of Art. 87 part 1, Art. 191 part 3, Art. 189 part 1, Art. 124 part 2, Art. 89 part 2 and several paragraphs of Art. 100 of the

Criminal Code. On September 11, 1997, the judicial board for criminal cases of the Viciebsk Regional Court, headed by S. Dziadkouskaya, found him guilty of stealing property and documents, assault in conspiracy with inflicting grievous bodily harm and embezzlement on a large scale, threat with murder to a public agent in performance of his duties, illegal deprivation of liberty in a way endangering the life and health of the victim and causing him physical suffering, as well as premeditated murder, murder for mercenary motives, committed by a person who has previously committed a murder.

6. Siarhei Zababuryn was found guilty of a murder, fraud and illicit manufacture and possession of firearms. He was sentenced to death and property confiscation. His parents appealed to the Human Rights Center "Viasna-96", and presented evidence that their son wasn't the murderer. Anatol Kapustsin passed a letter from death row wherein he wrote that he had given false testimony against Zababuryn, being afraid to bear the liability alone. In an excerpt from his Kapustsin's letter, he writes, "I deliberately gave a false testimony against S. Zababuryn regarding the murder of Tamashou, saying that he helped me to tie Tamashou and then take out his corpse for cremation. I wanted to put a part of the guilt on S. Zababuryn. I state that Siarhei Zababuryn is not guilty of any murders." The inaccessibility of prisons gives dishonest officers the opportunity to use torture and mockery that humiliate human dignity.

As it later became known from a letter that Ivan Famin sent to the Human Rights Center "Viasna-96", death row convicts are held in the Minsk remand prison in inhumane conditions. He says that, "*they beat you for everything…for writing statements to the infirmary and for asking for a priest for confession. They beat us with wooden hammers that are used for checking the walls and bars. There were cases when they fractured people's arms and ribs and injured lungs with these hammers.*" Representatives of the administration of the Minsk remand prison forbid prisoners to talk about the conditions in custody.

2001-2002

At the press-conference of February 11, the chairman of the Supreme Court of Belarus Valiantsin Sukala stated that in 2001 seven people had been sentenced to death and eleven more had been sentenced to life imprisonment. Five more people were awaiting sentencing.

On March 11, the Secretary General of the Council of Europe, Walter Schwimmer, urged Belarus to declare a moratorium on the death penalty. In his appeal he stated the incompatibility of the death penalty with all acceptable standards of human rights. He urged not to sentence to death the four gangsters who were accused of a number of crimes, including the abduction of Zmitser Zavadski.

On May 30 the House of Representatives of the National Assembly held hearings on the death penalty moratorium. Representatives of Belarusian human rights organizations, including "Viasna", were invited to the hearings. Valery Lipkin, Chairperson of the Permanent Committee on Human Rights, Ethnic Relations and Mass Media, talked about the history of the death penalty, various aspects of its application and annulment, summing it up in the end by stating, "This problem is strictly legal. Such a decision, in its turn, will allow radical measures to make the public and individual defence, as well as the work of law-enforcement agencies, more efficient. It doesn't really matter who makes the decision, if it is a political decision of the country's leadership, or if the people adopt it through a referendum. I believe that the death penalty will be banned in the near future". Uladzimir Kouchur, the head of the Committee on Penalties Execution at the Ministry of Internal Affairs, presented his report named, "The Juridical, Psychological and Educational Problems of Working with Individuals having Life-Sentences". He included there some statistics on people under life sentence:

Age:

36 people (45%) – 18 - 30 years old,
21 people (27%) – 31 - 40 years,
13 people (17%) – 4 - 50 years,
7 people are between 50 - 60,
1 person – over 60 years.

Educational background:

1 person has higher education,
17% – specialized secondary education,
61% – secondary education,
and 20% – basic (incomplete secondary) education.

Place of residence:

Minsk and Minsk region – 27 people;
Homieĺ and Homieĺ region – 16 people;
Hrodna and Hrodna region – 9 people;

Brest and Brest region – 2 people;
Viciebsk and Viciebsk region – 9 people;
Mahilioŭ and Mahilioŭ region – 9 people;
Uncertain place of residence – 2 people;
1 Russian resident (Bryansk region).

2005

At his press-conference on January 24, the head of the Supreme Court of the Republic of Belarus Valiantsin Sukala, informed journalists that the authorities had sentenced two citizens to capital punishment. According to him, it witnesses that, “Belarus really came up to the introduction of a moratorium on the death penalty.” The head of the Supreme Court believes that the alternative to capital punishment is a life sentence, introduced by the new Criminal Code. In 2004 twelve persons were sentenced to it, for especially serious crimes.

In spring 2005, a family of six people, including two children, was killed in the village of Vialikaja Maščanica, in the Mahilioŭ region.

On 5 April in its report for 2004, Amnesty International stated that more and more countries had refused from the death penalty. However, during the last year the number of the people to which it was applied was the greatest for the last 25 years. Meanwhile, Belarus was the only country that used the death penalty. In 2004 five people were executed in the country. According to Amnesty International, among CIS countries only Belarus and Uzbekistan use this kind of punishment, and both of them conceal some of the cases.

Belarus and Uzbekistan remain the last countries that still use this kind of punishment. The OSCE head, Rene van der Linden, pointed it out in his speech. The UN also has various claims with Belarus concerning the process of execution. Its special memorandum states that in Belarus it is equal to torture. According to the Department of Corrections of the Ministry of Internal Affairs, 126 death verdicts have been delivered since 1997. According to the department, their number decreases. At the end of the 1990s, some 30-40 verdicts were issued each year, in 2003 there were only four and in 2004, only 2. The Minsk remand prison is the only place in Belarus where the executions take place. Usually at least a year passes before the issue of the verdict and its execution. The convicts have the right to challenge the verdict

at the Supreme Court. Their last hope is the Presidential Commission on Pardons. Each decision of this commission is signed by Lukashenka in person.

2006

Belarus remains the only country in Europe where death sentences are issued and executed. Article 24 of the Constitution of the Republic of Belarus guarantees each person the right to life. According to this article, until its abolishment, capital punishment can be executed as an exceptional measure for especially serious crimes on court decisions conforming to the legislation. Article 59 of the Criminal Code provides capital punishment for some military crimes and especially heavy crimes against peace and security. Until recently, the temporary nature of capital punishment had not been specified in the Code. It happened only on July 20, 2006. A convict sentenced to death had the right to challenge the verdict at the Supreme Court. His last hope was the Presidential Commission of Pardons. Each of its decisions was signed personally by the President.

All in all, nine persons were sentenced to capital punishment (five in the first half of the year), in 2006. It is considerably more than during the previous years (four people in 2002, four in 2003, two in 2004 and two in 2005), but less than in the 1990s, when about ten people were sentenced to death every year. The chairman of the Supreme Court of Belarus, Valiantsin Sukala, stated that the recent growth of the number of death sentences was caused by the increase of the number of serial murders. "Of course, in this situation society and the court get in a very hard situation, as the life sentence would not be commensurable to the crime".

In 2006 information about the execution of death sentences was not published. However, according to the Radio "Polonia", the Belarusian authorities informed the Organization on Security and Cooperation in Europe that in the second half of 2005 and the first half of 2006, five people were executed. At the same time, society was inundated with the dangerous opinion that it was necessary to expand the list of crimes punishable by death. For instance, at the parliamentary sitting of December 11, 2006, a member of the Chamber of Representatives of the National Assembly Viktar Kuchynski, voiced the opinion about the possibility of punishing by death foreign citizens, who sold drugs on the territory of Belarus.

Some other tendencies concerning the use of the capital punishment in Belarus are cause concern as well. For instance, the trial of Marozau's gang and the result of which on December 1 three persons were sentenced to death, was closed and took place not in the location where the crimes had been committed (Homieĺ), but in the remand prison in Minsk, where death sentences are executed.

Though the prosecutor's office explained holding the trial in the prison with a great number of the accused persons and the decision to declare it closed for security reasons, this practice is condemned by human rights activists. Especially alarming was the possibility of the use of death punishment as a means of intimidation and blackmail of public and political activists. The most eloquent example was the situation on the eve of the presidential elections of 2006 in Belarus. At the press-conference of March 16, the KGB chief Stsiapan Sukharenka stated that all those who would choose to protest against the results of the presidential elections, and especially attempt to come out onto the streets and destabilize the situation, would be tried as terrorists. He also stated that the KGB reopened criminal cases under the article of a 'threat of a terrorist act', and all who had relation to such crimes would be detained and punished irrespective of their positions. Among other punishments for such crime, was article 359 of the Criminal Code, which provides capital punishment. Another eloquent example of politically motivated pressurization including the use of capital punishment, was a criminal case against a young activist from Žodzina, Pavel Krasouski. Mr. Krasouski was detained on suspicion in the organization of the explosions in Viciebsk in September 2005. Then this suspicion was supplemented with the suspicion in the murders and rapes of two persons, for which the activist could be sentenced to death. Later these suspicions were dropped. However, this case demonstrates that while the institution of the death penalty exists, there are no guarantees that it will not be used for intimidating political opponents of the regime. International organizations regularly voice their concern over the existence of the death penalty in Belarus.

On September 27, the UN Council on Human Rights approved the report of the Special Rapporteur of the UN on Belarus Adrian Severin, where it is stated that, "In 2004, the Working Group on Arbitrary Detention visited Belarus. In its report (E/CN.4/2005/6/Add.3), it noted the evident imbalance between the powers of the prosecution and the rights of the defence, in breach of international standards. This situation is

of extreme concern since Belarus is the last country in Europe to apply the death penalty, and a system which deprives accused persons of their right to defence can lead more easily to judicial errors. Such imbalance is embodied further by the abusive nature of the detention system. Physical conditions of pre-trial detention are harsh. Detainees are often put under strong psychological pressure. The presumption of innocence is seriously undermined." The Belarusian and the international community condemn not only the existence of the death penalty in the Republic of Belarus, but also the procedure of its implementation, namely, the secret and closed procedure of execution and the burial of the body. International human rights organizations equate the implementation of death penalty in Belarus to torture. They criticize the inhuman conditions of incarceration of death convicts (for instance, deprivation of outdoor walks and regular electric light in the cells), and the system of execution altogether."

On May 23, a yearly report of the international human rights organization Amnesty International was released. Concern with the use of capital punishment in Belarus is voiced there as well.

2007

2007 became a historical milestone in fighting for the abolishment of the death penalty all over the world. On November 15, 2007 the UN Third Committee (Social, Humanitarian and Cultural Issues) adopted a non-binding resolution supporting a moratorium on capital punishment. Never before had the Third Committee (where all member countries can vote), had a discussion on the issue which lead to such a resolution, because of differing opinions of states and different legal systems. The resolution states that the usage of the death penalty undermines human dignity. It says that the moratorium on the death penalty facilitates a better and more progressive development of human rights. There is no conclusive proof that the death penalty is a deterring factor, and any mistakes or drawbacks in the justice system in the sphere of the death penalty are irreversible and irreparable. The resolution called on all states still allowing capital punishment to "progressively restrict the use of the death penalty and reduce the number of offences for which it may be imposed", as well as "to establish a moratorium on executing death sentences with the purpose of abolishing the death penalty".

The resolution was initiated by the European Union and co-sponsored by 74 Member States. After intense debates the document was adopted

by a recorded vote of 99 in favour to 52 against, with 33 abstentions. China, Iraq, Iran, the United States (the overwhelming majority of death penalties is carried out in these countries), and Belarus, all abstained during the voting. Another important event on the international level was the announcement by the Council of Europe of the official European Day against the Death Penalty. The Council of Europe named this decision the European contribution to the World Day against the Death Penalty, marked annually on October 10.

According to UN data, as of 2007, 146 states abandoned the death penalty, and 51 still keep it. Belarus remains the only country in Europe, which still uses this measure. The international organization, "Hands off Cain" said in its 2007 report on the death penalty worldwide that, "In Europe, the only blemish on the image of an otherwise death penalty free zone was Belarus". Belarus remained the last of the post-Soviet countries (Uzbekistan abolished capital punishment on January 1, 2008), which passes and carries into effect death sentences. Article 24 of the Constitution of Belarus guarantees everyone the right to life, and states the temporary nature of the death penalty. Until its abolishment, the death penalty could be used under the law as an exclusive measure of punishment for especially grave crimes, and only by a court verdict". The Criminal Code provides for usage of the death penalty for 12 offences during peacetime and two offences during wartime. A person sentenced to death has the right to appeal the sentence to the Supreme Court, and then forward a petition to the Presidential Commission for pardon; any decision of the commission is signed personally by the President. At the present moment we know of only one decision of the President to grant pardon to a person sentenced to death penalty. However, due to non-transparency and the secrecy of actions connected to the death penalty and the absence of information available to the public, it is impossible to find the exact results of the work of the commission for pardon.

During the year mass media reported about cases where defendants were sentenced to death. On January 10, Polack District Court (Viciebsk region) sentenced Yury Kurylski, 28, to death. In May the Supreme Court left the sentence without changes. On May 22 the Supreme Court passed a death sentence to Aliaksandr Siarheichyk, former company commander of the Hrodna district security department of the Ministry of Internal Affairs. In November it leaked out that the sentence had been carried into effect. This information coincides with the data mentioned by the chairman of the

Supreme Court Valiantsin Sukala, who said in his interview to "Sovetskaya Belorussiya" that two death sentences had been passed in the first six months of 2007.

We also know that on October 9 the Supreme Court's judicial assembly for criminal cases passed death sentences to Siarhei Marozau and Ihar Danchanka after consideration of the second case against members of "Marozau's gang" (similar sentences to these individuals were passed on December 1, 2006, when the first criminal case against them was considered). According to the state prosecutor Eldar Safarau, investigation of Marozau's gang's offences continues and, "it is likely that Marozau's death sentence will not be carried into effect yet". The convicts addressed the President asking for pardon, but because they have received death sentences twice, their chances for pardon are minimal. Thus, in 2007 death sentences were passed to at least 4 people. This is less than in 2006 (nine people were sentenced to capital punishment), but more than in the previous years, as in 2005 there were two persons, and in 2004 two persons also.

The situation of the death penalty in Belarus was described by the chairman of the Supreme Court Valiantsin Sukala as, "the milestone before the moratorium on the death penalty" (interview with "Sovetskaya Belorussiya" in December 2007). V. Sukala also claimed that, "judges are being psychologically prepared to abolish the death penalty." According to him, an alternative to the death penalty, life imprisonment, had existed for 7 years in Belarus. and this was why the death penalty was used quite rarely. The chairman of the Supreme Court also pointed out that it was not easy to find an adequate punishment in the cases of serial killers or big gangs. The opinion of the chairman of the Supreme Court is not shared by all administrative agents in Belarus. Uladzimir Navumau, Minister of Internal Affairs, commented on the UN Third Committee resolution to BelaPAN saying, "Today the death penalty is a measure we cannot do without". In his opinion, the resolution was passed to "please politics, and not common sense. Common sense clearly dictates that we ask people in the countries that abolished capital punishment. I don't think Russia's treatment of that Bitsevo maniac (Alexander Pichuzhkin, sentenced to life imprisonment by the Moscow City Court – Ed.) was ideal. The people who suffered from his crimes have the same opinion".

Uladzimir Navumau also believes in the dependence of the crime rate on the presence of capital punishment in the punitive system of a country

stating that, “During the last five years the number of registered murders has decreased consistently. And there, in any country which has no capital punishment, it is the opposite”. However, the last statement of the minister of internal affairs contradicts the results of international expert research, which came to the conclusion that usage of capital punishment made society more savage and lead to the growth of murder and crime rate. The most recent research on the relationship between the death penalty and homicide rates, conducted for the United Nations in 1988 and updated in 1996 and 2002, concluded that, “...it is not prudent to accept the hypothesis that capital punishment deters murder to a greater extent than does the threat and application of the supposedly lesser punishment of life imprisonment”. The need to abolish the death penalty in Belarus was regularly raised at international forums where representatives of the Belarusian government participated.

During the Rome conference on the role of the Parliament in defining the public informational development policy in March, the chairman of the Council of the Republic (the upper chamber of the Parliament) Henadz Navitski, said in his conversation with Andrea Rigoni, PACE’s special rapporteur on Belarus, about the possibilities of the death penalty abolishment the following statement:

“Belarus is a European country, directed towards universal and European values, which is moving on the path of democracy. But one should be aware of the issues of historical peculiarities, the mentality, and difficulties of the transitional period. This is why it is impossible to build a society that would meet the high European standards in such a short term period”. Despite the rhetoric about the European path of development for Belarus, Henadz Navitski’s statement reflects the general orientation of the Belarusian authorities on deviation from European values. The “transitional period” of Belarus looks too protracted against the background of the death penalty abolishment not only by European neighbours, but also by the post-Soviet countries. At the same time, while saying that Belarus decreases the application of the death penalty, Navitski gave wrong information. He said that only two persons had been sentenced to capital punishment in 2006, whereas in reality there were nine such cases.

The unwillingness of Belarus to turn away from “legalized murder”, continued to draw censure and criticism, especially from fellow European structures and human rights organizations. In November, Rene van der Linden, President of the Parliamentary Assembly of the Council of Europe,

addressed the president of the Republic of Belarus on the issue of death sentences to Marozau's gang members, urging "to set a moratorium on the death penalty in Belarus, which would be a clear and resolute step in rapprochement of the country with the Council of Europe...death can have no place in the penal systems of modern civilized states. There should be readiness to introduce a moratorium on the execution of death sentences immediately and abolishing the death penalty is a necessary prerequisite for joining the organization," Rene van der Linden said.

A UN Special Rapporteur on the Human Rights situation in Belarus, Adrian Severin, pointed out in his report of June 12, 2007 that, "...it can't but cause concern that Belarus is the last country in Europe to apply the death penalty. The situation in the country is still characterized by harsh conditions of pre-trial detention, the practice of torture and other inhuman treatment, and excessive use of force by the police".

The influential international organization Amnesty International continued to address the Belarusian authorities with the appeal to abolish the death penalty, criticizing both the presence of the death penalty in its judicial system and the very procedure of executing the sentences, namely the secrecy and closure of the executions, and further actions connected with the burial of the executed. Amnesty Information demanded that full and complete information about the date and place of the execution and the place of burial should be provided to the families of the executed, as well as that the bodies and personal belonging be returned to the families. Considering two cases of usage of the death penalty in Belarus which were submitted as individual complaints, the UN Human Rights Committee stated that, "the complete secrecy surrounding the date of execution, the place of burial, and the refusal to hand over the body for burial have the effect of intimidating or punishing families by intentionally leaving them in a state of uncertainty and mental distress... Relatives are not informed about the date of execution in advance. The body is not returned, and the place of burial is not disclosed. The UN Human Rights Committee has found the treatment of the relatives of individuals sentenced to death in Belarus to amount to inhuman treatment in violation of Article 7 of the ICCPR (which prohibits torture, inhuman and degrading treatment or punishment)". However, Belarus has failed to follow the committee's recommendations about the persons mentioned in the complaints, and failed to amend the Belarusian legislation with the aim to disclose and improve the procedure of execution and burial of the executed. It should

be pointed out that failure to provide complete information about death sentences to the public and families involved is a violation of international obligations and legal standards. In its Resolution 1989/64, adopted on May 24, 1989, the UN Economic and Social Council urged Member States "to publish, for each category of offence for which the death penalty is authorized, and if possible on an annual basis, information about the use of the death penalty, including the number of persons sentenced to death, the number of executions actually carried out, the number of persons under the sentence of death, the number of death sentences reversed or commuted on appeal and the number of instances in which clemency has been granted…" Resolution 2005/59, adopted by the UN Human Rights Committee on April 20, 2005, urged all states that had not abolished capital punishment, "to make information about passing death sentences available for the public".

The Resolution of the UN Third Committee passed on November 15, 2007, "called on nations that do impose the death penalty to ensure they meet internationally agreed minimum standards on the safeguards for those facing execution, and to provide the United Nations Secretary-General with information about their use of capital punishment and observation of the safeguards."

During recent years Belarus has made several steps that could lead to the abolishment of the capital punishment if there was political will to do so.

2008

In 2008 Belarus remained the only European state where death sentences were issued and executed. After the abolition of the death penalty in Uzbekistan since January 1, 2008, our country became the last state in the post-Soviet space, that still used this kind of punishment.

The head of the Supreme Court characterized the situation of the death penalty in Belarus as an "actual moratorium". At the press-conference on September 9 he stated that, "death sentences are issued extremely seldom; we have actually reached a moratorium and are psychologically ready for it, provided the appropriate decision is made on the level of the parliament and the President".

According to the head of the Supreme Court, only one death sentence was issued in 2008 (in 2007 there were four, in 2006 nine, in 2005 two and in

2004 two, Ed.), three persons got life imprisonment (all in all, 130 persons are currently serving life sentences in Belarus).

At the press-conference of 10 December the Minister of the Interior, Uladzimir Navumau, also said that only one death sentence had been issued in Belarus in 2008. He called capital punishment a factor that withheld people from grave crimes.

At the same time, according to official information and the mass media where the cases that resulted in death sentences were covered in 2008, there are at least two such cases.

In particular, according to the information placed on the web-site of the General Prosecutor's Office, on March 21, 2008 the death sentence that had been issued by the College Board on criminal cases of the Minsk Regional Court for 21-year-old native of the Salihorsk district, Mikalai Kaliada, came into force. He was accused of having committed three murders, two attempts on human life, robbery and hooliganism. The Belarusian authorities informed the OSCE about this very case. This information can be found in the organization's document on the usage of capital punishment in 2008. The Belarusian authorities also informed the OSCE that there were no cases where the death penalty was replaced with a softer penalty as a result of the pardoning procedure, which means that the sentence to M. Kaliada was left in force. However, it is also known that on June 20, 2008 the Homieĺ Regional Court sentenced a 27-year-old citizen of Homeĺ, Pavel Leny, to death on an accusation of the rape and murder of a nine-year-old boy (http://naviny.by). In October the Belarusian mass media reported about the execution of P. Leny (www.svaboda.org/content/Article/1328779.html). The information about this sentence and its implementation was not mentioned by the authorities, which is incomprehensible and is a cause for concern.

On February 5, the press-secretary of the Supreme Court, Anastasiya Tsimanovich reported on the execution of three leaders of a Homieĺ gang, Ihar Danchanka, Valery Harbaty and Siarhei Marozau (the Supreme Court twice sentenced Danchanka and Marozau to death in December 2006 and in October 2007; Harbaty was sentenced to death in December 2006). However, at the time of execution the hearings on the case of Marozau's gang still continued. In January 2008, the Supreme Court heard the criminal case against Siarhei Marozau and three other members of the gang. The speed of the execution causes not only surprise, but also anxiety. According to one version, Siarhei Marozau was shot before the

beginning of the court hearings (February 19) because he started giving testimonies against high-ranking officials of the KGB and MIA, thanks to the protection of which his gang had acted with impunity in the Homieĺ region throughout 1994-2004. In 2007 the head of the Parliamentary Assembly of the Council of Europe Rene van der Linden addressed the president of Belarus with the call to abolish the death sentences to I. Danchanka, V. Harbaty and S. Marozau. He also emphasized that an introduction of a moratorium on the death penalty in Belarus would become "an evident and decisive step for the convergence of Belarus with the Council of Europe".

Having received information about execution of these criminals, the Secretary General of the Council of Europe, Terry Davis, stated that it was, "another manifestation of Belarus's open disrespect toward human values and achievements that unite all other European countries". Terry Davis pointed out that, though not being a member of the Council of Europe, Belarus is a member of the UN and the execution of three citizens contradicts the letter and intent of the resolution of the UN General Assembly calling for a universal moratorium on the death penalty. The ongoing use of capital punishment in Belarus was also condemned in the resolutions of the European Parliament of February 22 and October 9, 2008. The PACE resolution that was adopted on April 15, after the discussion of the report on abuses in the criminal justice system in Belarus, called on the Belarusian authorities to immediately introduce a moratorium for the death penalty.

The open letter of the PACE rapporteur Andrea Rigoni to the chairman of the Chamber of Representatives of the National Assembly of Belarus Vadzim Papou and the head of the Soviet of the Republic Henadz Navitski had the greatest resonance, and was published on April 14 in "Narodnaja Hazieta", the official edition of the Belarusian parliament. In his open letter Mr. Rigoni urged the heads of the both chambers of the parliament to take all possible measures for the introduction of a moratorium on the death penalty as an interim step towards its complete abolition. The letter emphasizes: "Every capital execution is one too many. However hideous the crime which has been committed, however indisputable the evidence of guilt, nothing justifies assassination by the State." Andrea Rigoni stated that he knew that at the 1996 referendum Belarusian society had voted for the preservation of this extreme penalty and insisted that,"Popular will should be the basis of every decision, but there are some issues on

which the authorities of a country should assume the responsibility to lead the way. I call on you and the Institution over which you preside to lead the way towards the introduction of a moratorium on the death penalty in Belarus, as an intermediate step towards its complete abolition."

At a press-conference on April 17, the head of the Chamber of Representatives, Vadzim Papou, commented on the address of A.Rigoni: "Many people said that there was no need to publish Rigoni's material, because the people would be indignant. We have published it. Now let us see, how will the population will react. Will there be any discussion or no? How will the people treat it? Then we will consider what to do next." In fact, it was the first proposal from the side of the authorities to hold a public discussion on this burning issue out of the last few years. Vadzim Papou also stated that, "the time has come to discuss the question of a moratorium on the death penalty in Belarus. Let us prepare together the public opinion for the creation of preconditions for this decision. Let us see how people will react to this issue. Of course, we cannot begin from the abolishment of capital punishment. Maybe it would be useful to introduce a moratorium first? Even then we need to continue working with society. Can it be any other way, when at the referendum 86% (to be more accurate, 80,44%, Ed.) of the citizens of Belarus voted against the abolishment of the death penalty? Imagine the deputies making another decision. What human rights and democracy could we speak of if we had supported Europe and implemented its request?"

In fact, despite these sound statements, during the year the authorities conducted no informational work with the society and no measures aimed at changing the public opinion about the death penalty.

In 2008 the Belarusian authorities did not take any decisive measures aimed at the abolishment of the death penalty or a moratorium on it. Discussion on this issue was mainly restricted to discussion of the perspective of Belarus joining the Council of Europe and the abolition of the death penalty as one of the conditions for this political step.

During the January session of the Parliamentary Assembly of the Council of Europe in Strasbourg, Natallia Andreichyk, the head of the commission on legislation and state-building of the Soviet of the Republic, stated that "Belarus wants to advance on the way to the standards of the Council of Europe, which is witnessed by its intention to introduce a moratorium on the death penalty".

In an interview with the news agency Interfax-Zachad on 18 December, the head of the Chamber of Representatives of the National Assembly of the fourth Convocation, Uladzimir Andreichanka, stated that "Belarusian authorities treat the position of the Council of European and PACE on the death penalty with understanding and are making the necessary efforts for its restriction and complete abolishment". Meanwhile, U.Andreichanka stated that one of the obstacles for decisive steps in this direction was "the people's will", manifested at the referendum of 1996, at which more than 75% (80,44%, Ed.) of citizens voted against the abolishment of the death penalty. However, we principally do not rule out the possibility to review the issue on the introduction of a temporary moratorium at a certain stage of social development. The complete abolishment of the death penalty is possible only by means of a national referendum."

By the way, Andreichanka's opinion about the necessity of a national referendum for a moratorium on or the abolishment of the death penalty does not correspond to the Conclusion of the Constitutional Court of Belarus of April 11, 2004 that states, 'The Constitutional Court thinks that in the present conditions the question of abolishment of this kind of penalty or the introduction of a moratorium on it as the first step, can be decided by the head of the state or the parliament." Therewith, in the conclusion it is pointed that the decision of the referendum 1996, of which 80,44% of citizens voted for preservation of the death penalty, "is not obligatory".

In an interview with the BelTA news agency on 2 June, the head of the Supreme Court of Belarus, Valiantsin Sukala, stated that "it is within the competency of the subjects of the legislative initiative and the members of parliament to decide whether this kind of penalty should be preserved in the criminal legislation or removed from it. What concerns should the judicial power have? We have never insisted on its preservation and think that at present there are all necessary preconditions for consideration of this issue, with the aim to at least introduce a moratorium on the use of this exclusive kind of penalty."

At the same time, sociologists register a considerable humanization of the views of Belarusian citizen's and the death penalty. In particular, according to the information of the national poll that was held in September 2008 by the Independent Institute of Socio-economic and Political Studies, 44.2% of the respondents spoke for the abolishment of capital punishment in the

Republic of Belarus, while 47.8% were for its preservation. This means that references to the referendum that were held twelve years ago no longer reflect the real public opinion and are used to justify the reluctance of the authorities to take political decisions.

In its yearly review presented in May 2008, the international human rights organization Amnesty International called Belarus the “last hangman in Europe”. In the recent years it has often addressed the Belarusian authorities, urging them to turn away from the use of the death penalty, criticizing both its presence in the legal system and the procedure of its implementation. Continuing its work in this direction, in 2009 Amnesty International announced the beginning of a wide campaign aimed at the abolishment of the death penalty in Belarus. On October 22-28, AI representative Heather McGill visited Belarus to monitor the situation and hold preliminary consultations with interested parties. She intended to hold meetings with Belarusian officials, including representatives of the MIA, the office of the Prosecutor General, the Ministry of Justice and the Supreme Court. These agencies had been informed about it in advance by the appropriate inquiries. “Representatives of the Belarusian authorities could have met with me in order to discuss the issue of capital punishment and its abolition, which I was very interested in. It would have been be a productive step forward for Europe. However, my attempts have still brought no result,” said Heather McGill. She managed to meet only with representatives of the Ministry of Justice, while other state structures refused to attend the meetings, referring to the business of their administration.

Thus, 2008 did not bring a breakthrough in the solution of the issue of the death penalty in Belarus and the country’s potential in joining the European community that is free from the legalized assassination of people by the state.

As stated by the head of the Supreme Court, Valiantsin Sukala, at the press-conference in Minsk on September 9, only one person was sentenced to death in Belarus in 2008. According to the official, this number witnesses that the death penalty was used very rarely and Belarus almost reached a moratorium on it. He also pointed that the introduction of a moratorium was in the competency of the President and the legislative authorities, but the judges were psychologically ready for it as well. “On the other hand”, Mr. Sukala stated, “we mustn’t forget about the results of the 1996 referendum, at which the majority of citizens in Belarus have supported the use of capital punishment”.

2009

2009 was yet another year when Belarus failed to either declare a moratorium on the death penalty or, abolish it altogether. Belarus again remained the only country in both Europe and the ex-Soviet Union that still passed and executed death sentences.

At the same time, for the first time in the history of the independent State of Belarus the issue of the death penalty came to the wide attention of the public. Unlike in previous years, when international organizations and the human rights community were the ones to raise the issue, in 2009 Belarusian government officials at various levels repeatedly stated that serious measures should be taken to abolish the death penalty or that a moratorium should be declared. However, it must be noted that the issue was primarily debated in political circles for clear pragmatic purposes, first of all due to the pressurization on the part of the international community.

Meanwhile, such issues as the effect of capital punishment on the crime rate, the humanitarian treatment of prisoners and basic morality, were barely mentioned in official statements. Nonetheless, civil activists, in their turn, did their best to raise these issues in general discussion.

In the first half of the year there was hope that the Belarusian authorities might be ready to consider the abolition of the death penalty or a moratorium on its use. The authorities in Minsk considered it as a way of demonstrating their willingness to liberalize the country and facilitate their dialogue with the European Union. This was also an issue that had been made a condition of the membership of Belarus in the Council of Europe. This position is clearly seen in the statements that were made by Belarusian officials.

At the press conference on February 21, Ryhor Vasilevich, the Prosecutor General of Belarus said that he didn't rule out the abolition of the death penalty in order to join the Council of Europe. Specifically that, "This is a requirement of the Council of Europe. If we join, we have to obey the existing rules. They say that when in Rome do as the Romans do." However, the Prosecutor General added that at this stage he considered the existence of such a punishment as justified, primarily as a deterrent.

"A moratorium on the death penalty would help to more easily establish a dialogue with other European countries", said Anatol Hlaz, vice-chairman of the Commission on Human Rights, National Relations and Mass Media of the House of Representatives, at a press conference on May 20. He

stated that Belarus would consider this issue and that it was now possible, "to work out the legislative framework for a moratorium on the death penalty". Mikalai Samaseika, chairman of the Committee on Legislation and Legal and Judicial Affairs, argued in an interview with the newspaper "Komsomolskaya Pravda" (Artil 7, 2009), that "at present the Republic of Belarus has actually debated the question of abolishing the death penalty. However, a moratorium on the death penalty should be considered first. Officially, the issue has not yet been raised in the Parliament, but the time could come for it in the near future."

A number of statements were made by the Presidential Administration suggesting that people were working on the issue. On June 11 Valery Mitskevich, the deputy head of the Presidential Administration said that,"The issue of the death sentence is not a new one. It is constantly under consideration and will be so for as long as no final decision is made". According to him, the declaration of a moratorium was quite possible. He stated that, "Any decisions and any legislative measures are possible. To do this, we have to pass either a draft law, or there has to be a presidential decree." On June 17, during a meeting of the Public Advisory Council on humanizing the penal system, Uladzimir Makey, head of the Presidential Administration, stated that, "the issue of capital punishment should not be seen as something that is fixed forever. I have also met Mr. Rigoni and we have talked about the issue. We have already reduced the number crimes specified by the Criminal Code that may incur the death penalty and this kind of punishment is applied more seldom nowadays. Furthermore, it [the issue of abolishing the death penalty, Ed.] must be reconsidered in the context of Belarus' accession to the Council of Europe. So far, we have only talked about the restoration of Belarus and its Special Guest status, but if a clear decision is made on our membership into the Council of Europe, we will have to take this further step [to declare a moratorium on the death penalty – Ed.]."

Meanwhile, there has been a clear desire on the part of European institutions to establish closer relations with the Belarusian authorities. On May 26, PACE's Political Affairs Committee unanimously decided to restore the Belarusian Parliament's Special Guest status. Göran Lindblad, the Committee's Chair, stated, "We believe that in this way we can promote change in a country that lacks democracy, a country with a repressive government, a country where the death penalty still exists..."



Father Aliaksandr Nadsan signs a petition against the death penalty. October 2010



Aleh Hulak, Sting,
and Valiantsin Stefanovich
campaign against the death
penalty.
Minsk, October 2010



Sting signs a petition against
the death penalty in Belarus.
Minsk, October 2010



At the shooting of the documentary Departed on Sentence. Script writer Palina Stsepanenka and Aleh Alkayeu, former head of pre-trial prison No. 1 in Minsk. Berlin, April 2012



At the shooting of the documentary Departed on Sentence. Script writer Palina Stsepanenka and Aleh Alkayeu, former head of pre-trial prison No. 1 in Minsk. Berlin, April 2012



Palina Stsepanenka, Andrei Paluda, coordinator of the campaign "Human Rights Defenders against the Death Penalty in Belarus", and Aleh Alkayeu, former head of pre-trial prison No. 1 in Minsk. Berlin, April 2012



Activists of the campaign "Human Rights Defenders against the Death Penalty in Belarus" and Aleh Alkayeu, former head of pre-trial prison No. 1 in Minsk. Berlin, April 2012



Andrei Paluda, coordinator of the campaign "Human Rights Defenders against the Death Penalty in Belarus", and Aleh Alkayeu, former head of pre-trial prison No. 1 in Minsk. Berlin, April 2012



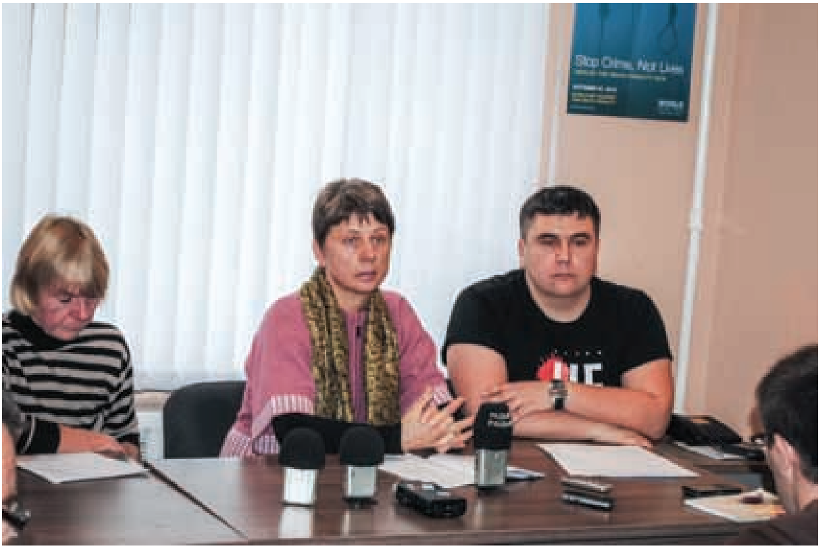
Former Parliament Speaker Mechyslau Hryb and Andrei Paluda at the presentation of the documentary Cause of Death Unknown. Minsk, 29 June 2011





Presentation of the documentary Cause of Death Unknown. Minsk, 29 June 2011





A press conference featuring human rights defenders and the relatives of death convicts. 30 October 2013





A round table discussion on the death penalty hosted by the Belarusian PEN-Center. Minsk, 8 October 2014



A round table discussion on the death penalty hosted by the Belarusian PEN-Center.
Minsk, 8 October 2014





Tamara Sialiun, mother of executed prisoner Pavel Sialiun, at Siarhei Balai's photo exhibition Capital Punishment. October 2014





Tamara Sialiun, mother of executed prisoner Pavel Sialiun, at Siarhei Balai's photo exhibition Capital Punishment. October 2014



The opening of Siarhei Balai's photo exhibition Capital Punishment.
Minsk, October 2014



Former Czech Foreign Minister Karel Schwarzenberg at the opening of Siarhei Balai's photo exhibition Capital Punishment





During a meeting with the relatives of death convicts. 9 March 2016.
Renaissance Hotel, Minsk.
Top: Andrei Paluda, coordinator of the campaign “Human Rights Defenders against the Death Penalty in Belarus”
Bottom, right to left: Milan Ekert, Czech Ambassador to Belarus,
and Karel Schwarzenberg, former Foreign Minister of the Czech Republic





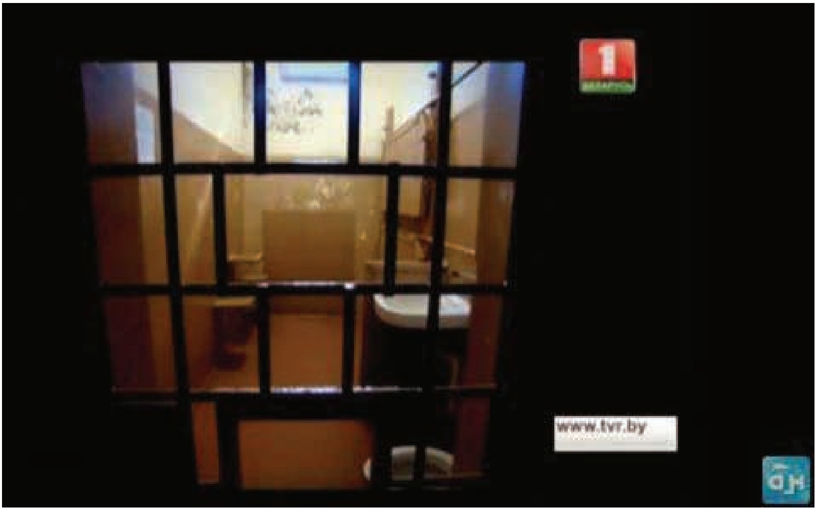
During a meeting with the relatives of death convicts. 9 March 2016.
Renaissance Hotel, Minsk.
Top: Liubou Kavaliova
Bottom: relatives of Henadz Yakavitski and Siarhei Khmialeuski who were sentenced to death in 2016



Death row in the old building of the Piščala Castle. Screenshots from a TV report by the Belarus 1 TV channel



Death row in the old building of the Piščala Castle



A penal cell in the Valadarka prison. Screenshots from a TV report by the Belarus 1 TV channel



Prison yard. Screenshots from a TV report by the Belarus 1 TV channel



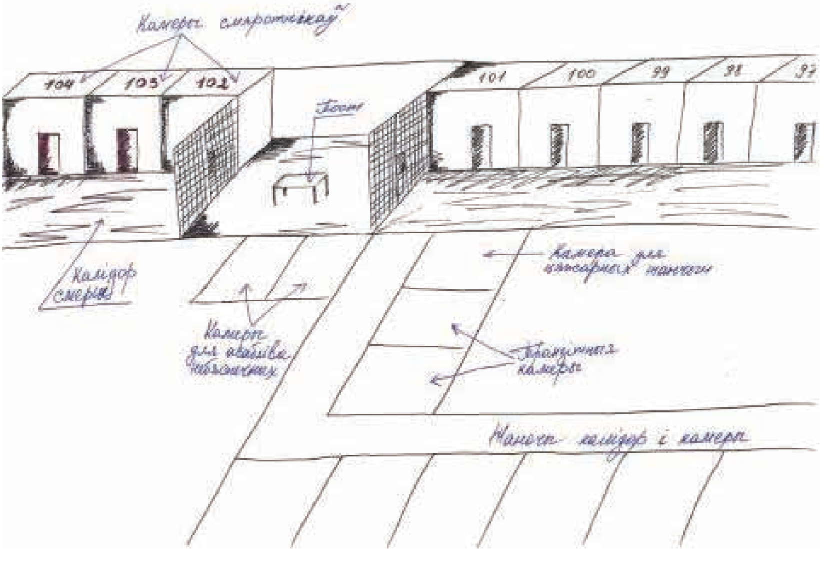
Persons convicted of particularly serious crimes escorted along the corridor in a prison in Žodzina. Photo: zhodinovel.com



Aliaksandr Hrunou's prison clothes. Photo by Viktar Tratsiakou



Death row in the old building of the Piščala Castle. Screenshots from a TV report by the Belarus 1 TV channel



A schematic layout of death row cells in jail No. 1





A booklet “Six Arguments against the Death Penalty” featuring the works by Vilnius-based artist Aleh Ablazhei



Andrei Paluda, coordinator of the campaign “Human Rights Defenders against the Death Penalty in Belarus”, wearing a T-shirt with the campaign logo designed by Uladzimir Tsesler





Leaflets against the death penalty in the streets of Mahilioŭ





A booklet against the death penalty. 2010





A poster from a series “The Death Penalty is Murder”. Copies of figures made from bread on death row. Artist – Viktar Tratsiakou. 2014

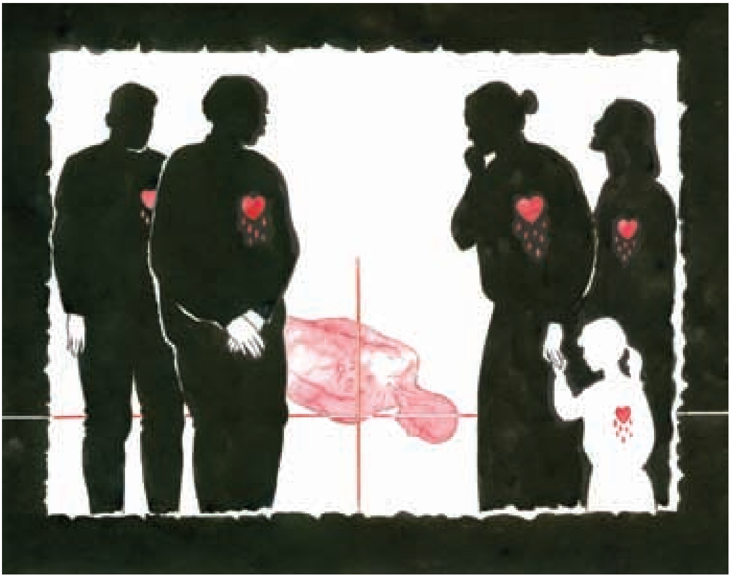




A poster from a series “The Death Penalty is Murder”. Copies of figures made from bread on death row. Artist – Viktar Tratsiakou. 2014



A poster from Aleh Ablazhei's series
"Six Arguments against the Death Penalty". 2014



A poster from Aleh Ablazhei's series
"Six Arguments against the Death Penalty". 2014



A poster from Aleh Ablazhei's series
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"Six Arguments against the Death Penalty". 2014



A poster from Aleh Ablazhei's series
"Six Arguments against the Death Penalty". 2014



Musicians involved in the Last Dawn project at a rehearsal in Minsk





Musicians involved in the Last Dawn project at a rehearsal in Minsk





Musicians involved in the Last Dawn project at a rehearsal in Minsk

Officials in Minsk thought the issue of the restoration of Belarus's Special Guest status as all but settled. Due to this, when the Parliamentary Assembly of the Council of Europe raised the issue of the death penalty in Belarus at an assembly on the 23 of June in Strasbourg, Belarusian officials were deeply shocked. Speaking in the debate after Andrea Rigoni's report that recommended the restoration of the Belarusian Parliament's Special Guest Status, Christos Pourgourides, the vice-chairman of the PACE Committee for Legal Affairs and Human Rights, entered a proposal to do so only after the declaration of a moratorium on the death penalty. Speaking emotionally on the importance of this condition, Mr. Pourgourides stated, "In Belarus, they shoot people and the families of the executed are not given the bodies, and are not informed where they have been buried". According to him, "there is still very much work to do" before the restoration of the Special Guest status to the Belarusian parliament would happen. "Many wrong things happen in Belarus. Before restoring their status, we must put certain conditions for the Belarusian authorities," stated Mr. Pourgourides expressing his views. The vast majority of PACE deputies supported this proposal and voted for the adoption of the amendment to the resolution, thus demonstrating that the EU required from the Belarusian authorities something more than just rhetoric before it could initiate a dialogue and its institutions could make any concessions. In particular, Belarus is expected to take definitive and swift action and to pass legally binding measures by declaring a moratorium on the death penalty.

On the same day, June 23, the Foreign Ministry of Belarus expressed its disappointment on PACE making new conditions for the restoration of the Belarusian Special Guest status, "particularly with regards to a moratorium on the death penalty". At the same time, the Foreign Ministry said that it understood the Council of Europe's position on the death penalty stating, "The Parliament of Belarus is doing the necessary analysis and is considering all the steps that are required, as is the wider legal community of the country. However, the weight of public opinion as it was expressed in the 1996 referendum held on this issue must also be taken into account." The Foreign Ministry's statement noted that "as far as we understand, the abolition of the death penalty or a moratorium on its use, which would bring us into accordance with the statutes of the Council of Europe, is a condition for accession to the Organization, not for being granted Special Guest status."

Valery Ivanou, vice-speaker of the House of Representatives who represented the National Assembly of Belarus at the PACE session stated after the vote on the Belarusian issue, that "a political decision has been taken today. A legal decision by the PACE/ODIHR will be taken in autumn [on September 7, at a meeting of the PACE/ODIHR in Paris – Ed.]. We will work on this issue until then."

The Belarusian authorities, having received a clear and unambiguous message that if they really wanted to see their Parliament join PACE they would have to meet the condition of declaring a moratorium on the death penalty, immediately began to ostentatiously demonstrate how much progress they were making on this issue.

On June 25 Valiantsin Sukala, the chairman of the Supreme Court, said that the judicial system of Belarus was ready for declaring a moratorium on the death penalty. "As it is stated in the Constitution of Belarus", he added, "this exceptional form of punishment is only a temporary measure and this formulation of words will inevitably lead to its abolition." Mr. Sukala also suggested that a moratorium on the death penalty should be an intermediate stage on its way to abolition and he considered the measure both possible and very reasonable. The head of the Supreme Court mentioned that in Belarus there already was another form of exceptional punishment, life imprisonment, and stressed that, "it is not substantially inferior to the death penalty in its gravity and severity". According to Mr. Sukala, the death penalty has rarely been used in Belarus in recent years, "so there are no obstacles there in terms of jurisprudence".

On June 29 Viktar Huminski, chairman of the House of Representatives' Commission on National Security, made a statement that a working group to discuss a moratorium on the death penalty was to be formed in the Belarusian Parliament. The MP said that,"My position is that we should get closer to abolishing the death penalty. Not because Europe has given us this condition, but because we ourselves might wish to put this question on the agenda. It is inevitable. I think that we will soon make a mature decision and abolish the death penalty without any outside pressure." Mr. Huminski himself was expected to head the parliamentary working group.

In early July, Siarhei Matskevich, chairman of the House of Representatives' Committee on International Affairs and the CIS Relations, said that competent state bodies were considering the need to establish a working group to discuss a moratorium on the death

penalty. According to him, the establishment of such a group was being considered by the Parliament, the Foreign Ministry, the government, the Presidential Administration, courts and prosecutors. “If this is to be an inter-agency group, it needs to be large enough to include several people from each agency. The question of a moratorium could be agreed upon before the meeting of the PACE/ODIHR in September. Theoretically, we could do this before then.” Mr. Matskevich also noted that, “it is not yet clear whether there is a need for such a group”.

Meanwhile, state-owned media started publicly campaigning against the death penalty. In early July, the state television channel ONT hosted a talk show on the subject with representatives of the relevant state agencies and human rights activists. On June 30 the state owned newspaper “Sovetskaya Belorussiya”, hosted a round table discussion on making the criminal justice system more humane and in particular on the use of the death penalty. It was attended by government officials, members of the clergy and human rights activists.

The rhetoric used by the Belarusian authorities in this period left no doubt that the issue of a moratorium on the death penalty was on the agenda and could be resolved in the near future. However, these expectations were not fulfilled. Moreover, as the rhetoric of the Belarusian authorities became ever more uncompromising, there was a clear retreat from their former position and this represented a clear challenge to the European community. On June 29 and July 17, two new death sentences were passed. All work with regard to suspending the death penalty was in effect suspended; no information on the preparations for a moratorium was made public, nor was there any information about the establishment of a parliamentary or of an inter-agency working group. Minsk officials once again demonstrated an unwillingness to compromise on any issue that was considered to be exclusively political. The general position of the Belarusian authorities was outlined on October 19 by Aliaksandr Lukashenka, when he received the ambassadors of 11 countries stating, “Belarus will not take any hasty steps to please Europe when making any internal decision,” and that “putting pressure on Belarus is futile”.

Despite the stubbornness of the Belarusian authorities, the European community continued to send signals showing its willingness to cooperate. On September 11, Goran Lindblad, head of the PACE Political Committee, stated that the Belarusian Parliament could regain its PACE Special Guest Status before the end of the year if the country abolished the death penalty.

"I would be happy if they [the Belarusians, Ed.] returned to PACE by the end of the year, but it all depends on them," said the politician.

On October 20 Jean-Eric Holzapfel, the Head of the European Commission's Office in Minsk, expressed his hope that Belarus would declare a moratorium on the death penalty as soon as possible. Meanwhile, he noted that it was one of the conditions imposed by the EU for the further development of relations and noted that a moratorium on the death penalty was a stipulation among the 12 conditions laid down by the EU in 2006 before relations with Belarus could be improved. After a long period of inaction, the Belarusian authorities returned to the issue of the death penalty in late 2009.

On November 29, ahead of the Italian Prime Minister Silvio Berlusconi's visit to Belarus, Aliaksandr Lukashenka stated in an interview for La Stampa that the government would campaign for the abolition of the death penalty in the country. "We made this decision a week ago and are going to take a number of steps to reach this goal, starting with parliamentary hearings and raising the topic in the media". Aliaksandr Lukashenka also mentioned that at the referendum of 1996 the majority of voters had chosen to retain the death penalty and thus its abolition could only be achieved through another referendum.

During his visit to Minsk on November 30–December 1, Jean-Louis Laurens, the Council of Europe's Director General of Democracy and Political Affairs, stated at a press conference that, "The main issue, which dominated all discussions, was the question of abolishing the death penalty. Today, the abolition of the death penalty is part of the standards and requirements of the Council of Europe. If Belarus wants to join the Council of Europe, to become a member of the democratic family, this issue cannot be avoided." Jean-Louis Laurens also commented on the issue of the death penalty being a condition for the restoration of the Belarusian Parliament's Special Guest status in PACE stating that, "Irrespective of our attitude to this, the decision has been taken already. There is a need for media coverage and other campaigns. And finally, this decision must be made at the political level."

On October 2, at the opening of the third session of the House of Representatives, the Speaker, Uladzimir Andreichanka, said that the possibility of a moratorium on the death penalty or its abolition could be considered at a round table discussion under the auspices of the Council of

Europe. He also stated that preparations for such a meeting were under way. “The opinion of the Belarusian people cannot be ignored in our approach to such complex issues as a moratorium on the death penalty or its abolition, or such issues as the recognition of Abkhazia and South Ossetia,” he stated, “MPs need to take into account the views of their voters”. Unfortunately, by the end of the year the Belarusian MPs had still not kept their promise; the “round table talks” had not been held and no poll of voters’ opinions on these sensitive issues had yet been published.

References to the “people’s opinion” and the results of the referendum of 1996 were often found in those senior government official statements that concerned the issue of a moratorium of the death penalty or its abolition. On October 20 Viktar Halavanau, the Belarusian Minister of Justice, speaking at a presentation announcing the achievements of the project “Promote the Wider Application of International Human Rights Standards in the Administration of Justice in Belarus”, said that the declaration of a moratorium on the death penalty was a “decision that could only be made by the Belarusian people”. “In 1996, the question was put to a referendum. The opinion of the overwhelming majority of the people is known. It is premature to declare a moratorium. Today, the death penalty is applied in 86 countries of the world, including Japan and most states in the USA, but nobody would say that these countries are uncivilized,” he argued. Nevertheless, Mr. Halavanau said that, in accordance with a decision by the Constitutional Court, there was no legal hindrance within the country to the declaration of a moratorium on the death penalty. “But if it is to be abolished”, he added, “One still needs to ask the people and to ask the relatives of those who have been murdered whether they can forgive the offenders for the suffering imposed on their loved ones. I think each country should tackle this issue separately and rely primarily on the will of the people.” In his speech Mr. Halavanau appealed to the victims of crimes and this trend to stress the emotional component of the issue was typical of many statements by many Belarusian officials in 2009.

The country’s authorities expressed mixed views with regards to the possible legal mechanisms for the declaration of a moratorium. Most members of the legal community cited the decision of the Constitutional Court of Belarus of March 11, 2004, “On the Conformity between the Constitution and the international treaties of the Republic of Belarus and the provisions of the Criminal Code of Belarus that provide for the use of the death penalty”,

under which a moratorium could be declared at least as a first step, either by the head of the state, i.e. the President, or the Parliament, which means that it did not require a referendum. The resolution stressed that Paragraph 3 of Article 24 of the Constitution, which provides for the possibility of the use of the death penalty as an exceptional measure of punishment until its abolition, could allow for a moratorium on the death penalty or even for its abolition. The decision also stated that the results of the 1996 referendum, in which 80.44% of the population voted in favour of the death penalty, was not legally binding.

Therefore, it was especially surprising when Piatro Miklashevich, chairman of the Constitutional Court of Belarus who had been in office since February 8, 2008, stated at a press conference on March 11, that the President and the Parliament could only initiate the abolition of the death penalty. "The provision for the death penalty", he stated, "is in the first section of the Constitution, which is under a special protection. Changes and amendments to this section are only possible through a referendum." He then referred to the fact that in 1996 more than 80% of the population had voted in favour of the preservation of the sentence. Mr. Miklashevich's position clearly contradicts the Decision of the Constitutional Court adopted in 2004. On December 1, Jean-Louis Laurens, the Council of Europe's Director General for Democracy and Political Affairs, said he was confident that no referendum was required for a moratorium on the death penalty in Belarus, stating that, "The political will of the country's leaders is needed here. For me it is primarily a question of morality. I am first of all guided by the fact that the death penalty is the only form of punishment that cannot be reversed. Belarus should not abolish the death penalty for the sake of Strasbourg, but for the interests of the country. A referendum on this matter is not mandatory." Independent experts also believe that a referendum on a moratorium is not required, as the Parliament could amend the legislation of the Republic of Belarus, i.e. the Criminal Code, by annulling the punishment, or a moratorium could be declared by a presidential decree.

A majority of the public still supports the death penalty, albeit only a slight one. In a national public opinion poll conducted in June 2009 by the Independent Institute of Socio-Economic and Political Studies, 41.7% gave a positive answer to the question "Are you for or against the abolition of the death penalty in the Republic of Belarus?", while 48.4% said they were against the abolition. Sociologists believe that it is the lack

of awareness among the population that bolsters support for the death penalty. It is interesting to note that, when compared to the poll that was held in September 2008, the percentage of supporters of the death penalty increased slightly. In the previous poll, 44.2% of respondents supported capital punishment and 47.8 % were against it. It is quite possible that the reason for this difference might only be the politicization of the issue, as well as the fact that the state media covered it primarily in terms of the atrocity of the crimes and thus the coverage was very often overemotional. Nonetheless, the polls do show that a large number of Belarusian citizens now hold far more liberal views with regard to the death penalty, so it is fair to assume that the referendum of 1996 no longer reflects the current public opinion.

Article 24 of the Constitution guarantees everyone the right to life. It also establishes the death penalty as a temporary measure: "Until its abolition, the death penalty may be applied in accordance with the law as an exceptional penalty for especially grave crimes and only in accordance with the verdict of a court". The Criminal Code envisages the death penalty for 12 offences in peacetime and two offences in wartime. Those who have been sentenced to death can apply to the President for clemency. The president also considers the death sentences of those who do not seek clemency. A petition for a pardon may be filed within ten days after the receipt of confirmation of the verdict or of the appeal decision. If the convicted person has not filed a petition for clemency in a timely manner or fails to notify the authorities that he will not apply, a legal document is drawn up. The petition or the legal document is then submitted to the president no later than three days after it is filed. The sentence is then suspended until the case has been considered. Petitions for clemency, as well as the case materials for those convicts who do not seek clemency, are considered by the Presidential Commission on Pardons, which holds its meetings at least once every three months. Applications for pardon by those who have been sentenced to death, or case materials of those who refuse to apply for pardon, are sent, prior to their consideration by the Commission, to the Supreme Court and the prosecutor's office. Within two weeks, these two bodies have to present their conclusions on the merits of the court decision, the circumstances in which the crime was committed, and including all relevant data on the convict as well as their recommendations on each petition for clemency or refusal to file such petition. After their consideration by the Commission, all the materials together with the Commission's proposals are submitted to the President.

The decision to pardon or reject a request for clemency is made in the form of a Presidential decree, which is then sent to the Supreme Court for implementation. The Supreme Court then files a report with the President reporting on how his decree was executed. Despite the fact that the Regulations on the Exercise of Pardon in the Republic of Belarus allow both for representatives of public organizations and the media to be invited to the Commission's meetings (Paragraph 9), and for their proceedings to be covered by the media (Paragraph 24), their work remains secret. Above all it concerns cases of those sentenced to death. The only information that was made publicly available, was the Commission's decision of 2003 to deny a petition for clemency filed by two convicts with death sentences. The Supreme Court, in its supervisory role, ordered the review of one of the cases, resulting in one man's death sentence being commuted to a 15-year prison sentence. No other information regarding the Commission's proceedings, or decisions by the President concerning death convicts, has been made public.

Two death sentences were passed in Belarus in 2009 (in 2008 there was one, in 2007 four, in 2006 nine, in 2005 nine, and in 2004 also two).

On June 29, Brest Regional Court sentenced Vasil Yuzepchuk, a 30-year-old resident of the Drahičyn district, to death. He was found guilty of committing a series of murders of elderly women. On July 17 the Minsk Regional Court convicted Andrei Zhuk, a 25-year-old resident of Salihorsk, of murdering two men and sentenced him to death.

On October 2, the Supreme Court upheld the sentence to Mr. Yuzepchuk, and on October 27 that of Mr. Zhuk. Ryhor Vasilevich, the Prosecutor General, told reporters on August 19 that the death sentences were absolutely justified stating, "This measure of justice is harsh, but fair. Unless our Criminal Code is changed in this respect, the Constitution provides for the death penalty."

Vasil Yuzepchuk and Andrei Zhuk filed petitions for clemency to the president. Vasil Yuzepchuk asked for his life to be spared, insisting that future evidence might arise that would prove his innocence. If the sentence was carried out, then, if there is an error, it would be impossible to correct. According to the lawyers who represented Mr. Yuzepchuk, the verdict by the Brest Regional Court was based only on circumstantial evidence and there was no direct evidence. The conviction was primarily based on the testimony of the police. There is recorded evidence that during his

detention at the remand prison Mr. Yuzepchuk had been beaten up. An expert panel also concluded that he was mentally deficient, had a poor understanding of what was happening and was illiterate. Therefore, there are very serious concerns that his guilt was not proven well enough. In the case of Andrei Zhuk, the lawyers also noted that the death penalty was too cruel and unusual a punishment because there were certain mitigating circumstances. He had admitted his guilt, voluntarily cooperated with investigators, and showed remorse for the crime.

With the assistance of human rights activists, Vasil Yuzepchuk submitted a personal communication concerning the violation of his rights, including the right to a fair trial and the right to life, to the UN Human Rights Committee. On October 12 the Committee registered the communication under number 1906/2009 and demanded that Belarus not execute the death sentence before considering its merits. Andrei Zhuk's mother also submitted a communication to the UN Human Rights Committee and on October 30 it was registered under special procedures number 1910/2009. In accordance with the special procedures, the Geneva-based office of the High Commissioner for Human Rights sent the Republic of Belarus a message about the registration of the appeal and required it not to execute the death sentence while the case was under consideration by the Committee.

Both the EU and the Council of Europe strongly criticized the death sentences. "The passing of another death sentence in Belarus indicates the urgent need for a moratorium on the death penalty", said Luis Maria de Puig, PACE President, on July 4, in response to Yuzepchuk's conviction. "I call upon the Belarusian authorities not to carry out the sentence and to take all the necessary measures for declaring a moratorium and demonstrating their willingness to move towards the values and standards of the Council of Europe and thus bring all of us a little closer to the ultimate abolition of the death penalty on the European continent", she said. On August 3 the press-service of the European Commission's office in Minsk issued a statement that noted that the European Union had expressed its grave concern over the imposition of two death penalties in Belarus. The statement stressed that the EU "opposes capital punishment in all cases and under all circumstances and has consistently called for its abolition worldwide. The EU is convinced that the abolition of the death penalty is essential to protect human dignity and to further the development of human rights." After the Supreme Court upheld the death sentences, a joint statement was made by Samuel Zbogar, the Chairperson of the Committee of Ministers of the Council of Europe

and Terry Davis and Thorbjørn Jagland, the CE Secretary General, which called on the Belarusian President to pardon the convicts and commute the death sentences to imprisonment. "Such an act of mercy by the President of Belarus will be an unambiguous signal of Belarus's intent to join the 47 member states of the Council of Europe, which have suspended or abolished the death penalty", the statement emphasized.

In 2009 human rights activists were most concerned about the issue of the death penalty. With the assistance of Amnesty International, in January the Human Rights Center "Viasna" and the Belarusian Helsinki Committee launched the campaign "Human Rights Defenders against the Death Penalty in Belarus". During the year, legal aid was provided to prisoners that had been sentenced to death, an extensive educational campaign was run (to the extent that such a campaign is possible in Belarus when considering the current monopolization of mass media by the state) and press conferences, debates, competitions, mass rallies and other similar activities were organized. In this manner human rights activists intended to maintain a free and open debate on the death penalty that discussed moral values, human dignity and the standards of a civilized society. The idea was to allow people to come to their own conclusions with regard to this complex problem. During the campaign a petition was drawn up that demanded the abolition of the death penalty in Belarus. It was signed by more than 30 people, including famous cultural and public figures, human rights activists, lawyers and scholars. On December 10 it was handed over to the Presidential Administration and a copy was sent to the House of Representatives.

On December 24 the activists received a response from Viktar Huminski, chairman of the House of Representatives' Commission on National Security. "As you know, this summer PACE restored the Special Guest status to the National Assembly of the Republic of Belarus for one year, but on condition of the declaration of a moratorium on the death penalty", the MP said. The information in the letter was wrong and it is obvious that the chairman of the Parliamentary Commission was unaware of the current state of relations between Belarus and PACE. At the same time, it showed that the legislature was ready to address the issue of capital punishment stating that, "Belarus has come to the point where society should begin a detailed, transparent and wide discussion about the abolition of the death penalty. Because of this we, the deputies, must hold a dialogue with the people. It could take many different forms. But first of all we shall look into the possibility of holding parliamentary hearings on the subject."

Human rights activists welcomed the MPs' declared intention to establish a dialogue with the people and urged them to hold parliamentary hearings that would involve the widest possible range of parties concerned, including defenders of human rights in Belarus and representatives of international human rights organizations. The Belarusian authorities did not actively oppose human rights activists who campaigned against the death penalty, but nonetheless some were detained.

On June 5 the participants of a street performance that included the distribution of informational leaflets were arrested for the alleged "participation in an unauthorised mass event". Later on, they were released without charges.

On October 10, during a rally in Navapolack marking the World Day against the Death Penalty, the police detained Zmitser Salauyou, a human rights activist, and two other people. The detainees were taken to the police department and were released without getting any charges an hour later. In many regions activists from other organizations, especially youth organizations, supported the campaign. "Young Front" held a protest rally against the death penalty on August 10 in Brest. In Hrodna, human rights activists were joined by the Belarusian Social Democratic Party "Hramada", the United Civil Party, the Young Democrats and the Civic Forum. Human rights activists welcomed the declaration by the European Union that the Belarusian Parliament could not regain Special Guest Status in PACE without a moratorium on the death penalty, as they considered this to be a very significant step that symbolized the spirit of human rights and European values. The human rights organization Amnesty International contributed greatly to the campaign against the death penalty in Belarus. Their representatives made two visits to Belarus during the year.

On March 24 at a press conference in Minsk, Nicola Duckworth, the Europe and Central Asia Programme Director and Heather McGill, an Amnesty International specialist adviser, presented a report entitled "Stop the Death Penalty in Europe: towards the Abolition of the Death Penalty in Belarus". They also called on the Belarusian authorities to promptly declare a moratorium on the imposition and execution of capital sentences as a first step towards the complete abolition of this form of punishment. Human rights activists demanded the right to information on cases that involved the use of the death penalty and called for a discussion about

it. During Amnesty International's visit to Belarus, their representatives were received by officials from the Ministry of Justice, but ignored by the Minister of Internal Affairs and by the Presidential Administration. When Heather McGill came to Belarus, she participated in a round table discussion on the death penalty held by the OSCE. She regarded the willingness of the Belarusian Parliament, the Ministries and the Supreme Court to discuss the issue as a positive development in the Belarusian authorities' attitude to the problem. "This is a significant step forward. Of course, we believe that this is not enough. We want to see definite steps for a moratorium. Yet, there is hope," said the expert of Amnesty International.

Thus, in 2009 Belarus failed to demonstrate a decisive political will and took no steps to abolish the death penalty or declare a moratorium on its use. The death penalty is still used by the Belarusian authorities as a counter for political bargaining and human life is not regarded as something so sacred that it may not be infringed upon by anyone, including the state.

In May, the Brest Regional Court sentenced 30-year-old Vasil Yuzepchuk to death for a series of murders. His 28-year-old accomplice Siarhei Huchenka received a life sentence in a high-security correctional colony. In June, the action "Human Rights Defenders against the Death Penalty" was held for three days in a row in Hrodna. This initiative of Hrodna activists of the Human Rights Center "Viasna" that had been deprived of the state registration, was supported by youth activists of the Belarusian Social Democratic Hramada, the United Civil Party, the Young Democrats and the Civic Forum. For three days the activists kept handing out to citizens of Hrodna calendars with the inscription, "Belarus is the only country in Europe where the death penalty is still retained," and informing them about the situation of the death penalty in Belarus and Europe.

On June 24 Viktar Huminski, chairman of the National Security Commission of the Chamber of Representatives, stated that the death penalty could be abolished in Belarus, but not because of the PACE demands, but because Belarusians had changed since the times of the referendum of 1996. "A special group has been established at the Chamber of Representatives to study the question of abolition of the death penalty and work out the appropriate proposals. The PACE knows about it," said Mr. Huminski. Bear in mind that on June 23 the PACE voted for returning of the guest status to Belarus provided that the Belarusian authorities would introduce a moratorium on executions.

On July 17 the Minsk Regional Court pronounced verdicts to murderers of workers of Balshavik-Agro. One of them, Andrei Zhuk, was sentenced to death.

On October 2 the Supreme Court dismissed the cassation complaint of Vasil Yuzepchuk who had been sentenced to death by the Brest Regional Court on June 29. All national means of legal defence being depleted, an individual communication on behalf of the convict was filed with the High Commissioner on Human Rights in Geneva. The author of the communication asked the Committee to urgently register the document and address Belarus as a state party to the Covenant of Civil and Political Rights with the request not to execute the sentence till consideration on the merits of the complaint in order to prevent the irretrievable court error towards the convict.

On October 12 Vasil Yuzepchuk's communication was registered by the UN Human Rights Committee. On July 17 the Minsk Regional Court sentenced to death another person, a 25-year-old resident of Salihorsk Andrei Zhuk. On October 30, 2009 the UN Human Rights Committee urgently registered the individual communication of Andrei's mother. The woman applied to the Committee after the College Board on Criminal Cases of the Supreme Court turned down the cassation complaint of her son and left the death verdict in force. The Geneva office of the High Commissioner on Human Rights submitted to the Republic of Belarus information about the registration of the communication and demanded from Belarus not to execute the sentence until consideration were made on the merits of the communication.

On November 10 in Minsk, a press-conference of the death convict Andrei Zhuk's parents took place. The mother addressed the President of Belarus with an open letter, asking to pardon her son, the death verdict to whom came into force after his cassation complaint had been considered by the Supreme Court. During the event Valiantsin Stefanovich, lawyer of the HRC "Viasna", stated that the communications concerning the latest death verdicts to Andrei Zhuk and Vasil Yuzepchuk were accepted for consideration by the UN Human Rights Committee. He also said that the state agencies who were responsible for execution of the verdicts needed to suspend the executions until consideration were made on the merits of the complaints by the Committee.

On November 15 the Office of the UN Supreme Commissioner on Human Rights, gave publicity to the information received from the competent state

agencies of Belarus concerning the individual communication submitted to it on behalf of the death convict Vasil Yuzepchuk. The Belarusian authorities claimed that Yuzepchuk's communication was illegitimate, because it had been filed before exhausting the national means of defence, as his petition for clemency was being considered by the President of Belarus. Besides, the Belarusian authorities denied violating Article 6 of the Covenant on Civil and Political Rights and stated that Yuzephuk had been sentenced to death in conformity with the legislation of Belarus, stressing the question of inadmissibility of consideration of Yuzepchuk's communication. The UN Human Rights Committee gave the opportunity to present remarks to this information on the part of Yuzepchuk by December 14.

On December 10, representatives of the human rights community acting within the frames of the campaign of the "Human Rights Defenders Against the Death Penalty in Belarus", submitted a petition to the Presidential Administration with the call to annul this kind of punishment that violated the right to life. A copy of the petition was passed to the Chamber of Representatives of the National Assembly of the Republic of Belarus. It was signed by more than 30 well-known cultural and civil activists, human rights defenders, lawyers and scholars.

The Office of the UN Supreme Commissioner on Human Rights received the commentary of the Belarusian government to the individual communication of the death convict Andrei Zhuk's mother. In this document the authorities challenged the legitimacy of the communication and stated that Andrei hadn't depleted all national means of defence (as they considered the clemency petition to the President as one of such means).

2010

In January, activists of the campaign, "Human Rights Defenders against the Death Penalty in Belarus" received an answer from the Chamber of Representatives of the National Assembly of the Republic of Belarus, signed by Viktar Huminski, chairman of the National Security Commission of the Chamber of Representatives. "Belarus has come to the point where a detailed and open discussion on the abolishment of the death penalty needs to be started in the society. We, deputies, need dialogue with the people in this respect. This dialogue can have different forms. First of all, we will consider the opportunities of holding parliamentary hearings on this issue. I think they will allow an objective evaluation of the situation and the

readiness of the society to look at the problem from a new viewpoint.' At the same time, V.Huminski referred to results of the referendum of 1996 and stated that deputies had no right to ignore its results.

The UN Human Rights Committee issued a press-release on the results of its spring session in New York, which noted that the Belarusian government ignored the request of the Committee to suspend the execution of the death verdicts to the Belarusian citizens Vasil Yuzepchuk and Andrei Zhuk unil consideration of their case at the UN Human Rights Committee, and thus scandalously violated its international undertakings under the Optional Protocol to the International Covenant on Civil and Political Rights. Lawyer Raman Kisliak, the human rights activist who prepared the individual communications to the UN Human Rights Committee on behalf of the death convicts, was convinced that thereby the Belarusian authorities challenged the UN Human Rights Committee and the international community.

On May 12, human rights defenders addressed Prosecutor General and Chairman of the Supreme Court with inquiries concerning the number of death sentences issued in 1990-2009. This action was taken within the guidelines of the "Human Rights Defenders against the Death Penalty" campaign. As stated by Brest and human rights defender Raman Kisliak, this information was necessary for human rights defenders to continue the campaign on informing the population about the use of the death penalty in Belarus.

On May 14 the Hrodna Region Court sentenced to death two citizens of Hrodna, Aleh Hryshkautsou (29 years old) and Andrei Burdyka (28 years old). They were found guilty of an especially violent murder of three persons, robbery with infliction of hard bodily injures, intentional damage to property and the abduction of a minor. On May 17 the Belarusian Helsinki Committee and the Human Rights Center "Viasna" condemned the death verdicts. Their official statement was also upheld by Amnesty International. The human rights defenders emphasize that the verdicts were issued literally two days after the criticism had been voiced during the session of the working group for the presentation of the Universal Periodical Review concerning the use of the death penalty by Belarus. Thorbjørn Jagland, Secretary General of the Council of Europe, Antonio Milošoski, chairman of the Committee of Ministers of the Council of Europe, and Mevlüt Çavuşoğlu, chairman of the Parliamentary Assembly of the Council of Europe, urged Belarus to abolish the death penalty immediately.

In June human rights defenders received an answer from the Ministry of Justice of the Republic of Belarus to their inquiry concerning the number of death sentences that had been issued and executed in 1999-2009. The ministry didn't provide them with any information about the number of executed sentences, confining itself to statistics concerning the number of enforced sentences. As it follows from the answer, a total of 321 persons were sentenced to death during this period of time. The answer of L.Mialhui, chairman of the bureau of organization and analytical provision of judicial bodies, reads: "The Ministry of Information of the Republic of Belarus doesn't possess information about the results of consideration of the cases with death sentences by cassation and review instances, and about the execution of the death verdicts and pardoning the persons who were sentenced to death. The functions of penalty execution are implemented by the Department of Corrections of the Ministry of Internal Affairs of the Republic of Belarus." Bear in mind that human rights defenders had addressed the Ministry of Justice, the Supreme Court and the General Prosecutor's Office with similar inquiries before, but the aforementioned state agencies just passed the function of voicing the statistics on one another.

The cassation complaints of the death convicts Andrei Burdyka and Aleh Hryshkautsou were to have been considered by the Supreme Court on July 30. On May 14, both of them had been sentenced to death by the Hrodna Regional Court. However, the consideration of the complaints was postponed to September 17 for unknown reasons.

In early September, representatives of the international human rights organization Amnesty International, Heather McGill and Aisha Jung, visited Belarus within the guidelines of the campaign against the punishment of criminals with death. They met with parents of death row convicts, representatives of various NGOs, the Orthodox Church, chairman of the Working Group of the National Assembly on the Death Penalty, Mikalai Samaseika.

On September 14, the Mahilioŭ Region Court issued another death verdict. Aliaksandr Sychou and Ihar Mialik were convicted of a series of violent crimes committed by their gang in the Mahilioŭ region. The former was sentenced to life imprisonment and the latter, to death.

On September 17 the Supreme Court of the Republic of Belarus dismissed the appeals of Hrodna residents Andrei Burdyka and Aleh Hryshkautsou against the death verdicts that had been issued to them for a triple murder.

On September 18 the world-famous singer Sting supported the struggle of the Belarusian human rights defenders for the abolishment of the death penalty. He met with them before his concert in Minsk in order to sign the petition against the capital punishment within the guidelines of an appropriate campaign of the Human Rights Center "Viasna", the Belarusian Helsinki Committee and Amnesty International. "It's time to change this", said Sting in his video address.

On September 23 the working group of the National Assembly of the Republic of Belarus on the death penalty took part in a round table held by the Council of Europe. "The abolition of the death penalty must be accompanied by the introduction of an adequate prison system and acceptable alternative punishments", stated representatives of the Council of Europe. "The abolition of the death penalty will bring Belarus closer to European human rights standards".

On October 4 Sviatlana Zhuk, the mother of an executed death convict Andrei Zhuk, appealed at the Lieninski District Court the refusal of the Department Corrections of the Ministry of Internal Affairs to inform her about the place of burial of her son. The Department referred its refusal to Article 175 of the Criminal Code, according to which, "the body is not given out for burial and the place of the burial is not reported".

On October 5, the activists of the campaign "Human Rights Defenders against the Death Penalty in Belarus" Palina Stsepanenka and Iryna Toustsik, were detained at the frontier point Kamienny Loh. They were set out of a bus Vilnius-Minsk. Officers of the Ašmiany customs office seized from them informational booklets and stickers concerning the death penalty and said that these items would be sent for a check-up. However, nothing has been returned so far.

On November 28, a resident of Brest Sniazhana Neudakh, a mother of three children, submitted two written applications to the President asking him to help Sviatlana Zhuk in receiving information about the place of burial of her son. She is convinced that it could be a demonstration of humanity on the part of the authorities.

She received answers from the Presidential Administration and the National Centre of Legislation and Legal Research of the Republic of Belarus to her address. The letter from the Presidential Administration tells that her proposal about introducing amendments to the Criminal-Executive Code

was considered by the National Centre of Legislation and Legal Research. The other answer informs Sniazhana that the proposal will be considered by the working group of the centre within the guidelines of preparation of the draft law of the Republic of Belarus, “On introducing changes and amendments to the Criminal-Executive Code of Belarus”, the drafting of which is provided by the plan of preparation of draft laws for 2011.

On Novembers 30 activists of the campaign “Human Rights Defenders against the Death Penalty in Belarus” held a symbolic action called, “Cities for Life – Cities against the Death Penalty” in Minsk. In the evening they lit tens of candles near the St. Symon and Aliena Church opposite the House of the Government.

On December 6 the UN Human Rights Committee registered an individual communication of Aleh Hryshkautsou, who had been sentenced to death on May 14, 2010. Hryshkautsou complains about violation of his rights that are guaranteed by the International Covenant on Civil and Political Rights, first of all the right to a fair trial. The communication also contains a request for taking measures of temporary defence and suspending the implementation of his sentence until all-sided consideration were made of the case by the Human Rights Committee.

On December 13 A.Hryshkautsou addressed A.Lukashenka with a request to suspend the implementation of his sentence till the consideration of his case by the Committee. He had to resort to this measure because two previous death convicts, Vasil Yuzepchuk and Andrei Zhuk, had been executed despite the fact that the competent state organs of Belarus had been informed that their cases had been pending at the UN Human Rights Committee.

2011

In November, the website of the Roman Catholic Church in Belarus published an article on the death penalty: *“The Church protects every human life, always considers it inviolable and therefore stands up for those sentenced to death. Blessed John Paul II repeatedly called for the complete abolition of the death penalty. Opponents of the death penalty base their arguments on the deep conviction that each life is sacred, even if the person is not a saint. Another reason is the lack of time for conversion and repentance. The possibility of a miscarriage of justice isn’t left unattended either. What do those who support the death penalty say? They refer to the*

duty of the state to ensure order in society and public safety, and argue that that society has the right to apply the death penalty in certain situations.

According to forensic investigations, the number of crimes doesn't decrease in the countries that retain the death penalty, as well as it doesn't increase in the countries where it has been abolished. Those who deny the death penalty, focus on quite a different thing, the dignity of the criminal. Thereby, they don't banalise the evil that stands behind each serious crime. They try to prove that society is threatened not by the existence of the criminal, but by his actions. The death of the murderer cannot compensate for the murder of another man, as it will not bring the victim back to life, destroy the evil or at least slow down its development."

On November 23, Liubou Kavaliova appealed to the international community via the Internet. She posted her petition on a special website for signing by everyone who opposed the death sentence to Uladzislau Kavaliou and Dzmitry Kanavalau, who were accused of the terrorist attack in Minsk metro.

Dzmitry Kanavalau is charged with organizing terrorist acts in Viciebsk in 2005, on Independence Day in Minsk in 2008, and in the Minsk metro in April 2011. "On November 30, the Supreme Court of Belarus issued its final decision on the verdict to my son, Uladzislau Kavaliou, and another youngster, Dzmitry Kanavalau. Dzmitry Kanavalau is charged with organizing terrorist acts in 2005 in Viciebsk, on Independence Day in Minsk in 2008 and in the Minsk metro in April 2011. My son, Uladzislau Kavaliou, is charged with complicity and failure to report the conceived crime. All charges are based on testimonies that were given under pressure during the preliminary investigation, and Uladzislau Kavaliou refused from them at the trial. The investigation didn't present any other hard evidence," writes the mother. She firmly believes that her son is not guilty of those crimes. This opinion is supported by some of the people who fell victims of the terrorist act in the Minsk metro. Liudmila Kavaliova says that both defendants were subjected to torture during the investigation with the aim to make them confess to the crimes and that the court didn't grant numerous petitions of the victims and lawyers of Kanavalau and Kavaliou. She also points at the fact that independent journalists were prohibited to contact with the victims and state-owned mass media presented Kavaliou and Kanavalau as terrorists without waiting for the court verdict. "At present Belarus is the only country that applies the death penalty. I appeal to you with just one request. I ask you to help to prevent the killing of my son, Uladzislau Kavaliou and his

acquaintance, Dzmitry Kanavalau and call to find those who need to be held liable for these crimes," reads the petition. Liubou Kavaliova hoped to gather 5,000 signatures under her petition. 1.5 thousand people have signed the petition thus far. Liubou Kavaliova also signed the petition that has been disseminated on the Internet for several days already, as its creators intend to collect 100,000 signatures of those who protest against the death penalty for Uladzislau Kavaliou and Dzmitry Kanavalau by November 30.

On November 28, Belarusian human rights activists issued a statement regarding the demand of the state prosecutor to punish Dzmitry Kanavalau and Uladzislau Kavaliou with death:

Belarusian human rights defenders strongly condemn the state prosecutor's request to sentence to death Dzmitry Kanavalau and Uladzislau Kavaliou, defendants in the April 11, 2011 subway bombing trial.

The Belarusian Constitution and the international treaties ratified by the country guarantee the citizens' natural and inalienable right to life, proclaiming it as the supreme value.

The death penalty is meaningless.

It does not correct the committed, nor does it restore justice.

It does not result in the criminal's repentance or conscience of guilt.

It does not stop other criminals, but just spreads violence in the society.

Sincerely sympathizing with the grief and sufferings of the victims of the crimes and their families, we however should state that the death penalty procedures applied in Belarus with the death convict bodies not returned for burial, and the time and location of burial, as well as the time of the execution, all remaining a secret, are inhuman treatment towards each convict's families. Therefore, we should put an end to the escalation of violence and sufferings.

The death penalty, as revenge and a rudiment of medieval atrocity, is intolerable from the viewpoint of morals even when it is used against persons whose guilt of committing grave offences has been completely proven and raises no grounded doubts.

Meanwhile, it is evident that no law enforcement system or judiciary is perfect. Moreover, miscarriages of justice cannot be corrected after the execution of a death verdict.

One cannot ignore the fact that, according to reports by defence lawyers, human rights defenders, certain victims and ordinary citizens, the investigation into the Minsk metro explosion, as well as the entire trial of Dzmitry Kanavalau and Uladzislau Kavaliou, failed to be professional and convincing.

Observers report serious procedural violations during the preliminary investigation and the judicial examination. The defendant's right to legal protection has been gravely restricted. The defendant's reports of physical and psychological pressure during the preliminary investigation failed to be properly examined. Numerous motions by defence lawyers, aimed at clearing up the irregularities and contradictions of the presented evidence, were groundlessly dismissed.

During the trial, a number of victims expressed their doubt as to Dzmitry Kanavalau and Uladzislau Kavaliou's involvement in the terrorist act. Tens of thousands of Belarusians have signed the petition requesting not to execute the defendants in the case.

We believe that, provided that the investigation has established Dzmitry Kanavalau and Uladzislau Kavaliou's direct involvement in the metro explosion, the lives of the persons possessing valuable information on the circumstances of the tragedy should be saved for the sake of public security.

Dzmitry Kanavalau and Uladzislau Kavaliou's lives should be saved because future data on the terrorist act of April 11 may appear. It is not the execution of the criminals that should be viewed as the crucial aftermath of the case, but society's confidence in the establishment of every motive, circumstance and persons involved.

For the sake of humanity and public security, we demand not to apply the death penalty against Dzmitry Kanavalau and Uladzislau Kavaliou!

***Aleh Hulak**, "Belarusian Helsinki Committee";*

***Elena Tonkacheva, Volha Smalianka**,*
"Centrer Legal Transformation";

***Tatsiana Reviaka**, "Belarusian Human Rights House";*

***Enira Branitsaya**, "Office for Rights of People with Disabilities";*

***Andrei Paluda**, campaign*
Human Rights Defenders against the Death Penalty";

***Valiantsin Stefanovich**, Human Rights Centre "Viasna"*

On November 30, the Supreme Court of Belarus issued the verdict on the case of Dzmitry Kanavalau and Uladzislau Kavaliou. It was announced by the first deputy chairman of the Supreme Court, Aliaksandr Fedartsou. Kanavalau and Kavaliou were found guilty of organizing the explosion at the metro station "Kastryčnickaja" in April 2011 and on the Day of the Republic in Minsk, in July 2008. Meanwhile, 50,000 Internet users signed for saving the lives of the defendants. Long before the trial, many journalists, human rights activists and witnesses in the case gathered near the House of Justice in Siamaška Street. The authorities started blocking mobile telephone communications. Photo and video correspondents weren't let in the courtroom. The verdict, consisting of 114 pages, was read aloud for 4.5 hours at the request of the victims in the case. The court found that Kanavalau had carried out the terrorist act on April 11 in Minsk, having brought the explosive device from Viciebsk. Kavaliou transported the explosive device to a rented apartment together with Kanavalau and assisted him in bringing it into the operational state. Kanavalau was found guilty in bringing the explosive device in the metro and making the explosion. Judge called the surnames of the 15 dead and about 200 injured. Kanavalau was also found guilty of making the explosion on the Day of the Republic on July 4, 2008 in Minsk. Uladzislau Kavaliou was found guilty of the failure to report about it. The court found Uladzislau Kavaliou guilty of complicity in the terrorist act of April 11. The Supreme Court sentenced Kanavalau and Kavaliou to death, stating that they "present an exceptional danger to society". Kanavalau was found guilty of malicious and especially malicious hooliganism, intentional destruction of property, illegal acquisition, storage and transportation of explosives and explosive devices, terrorism, combined with the murder of people. Kavaliou was found guilty of malicious and especially malicious hooliganism, intentional destruction of property, illegal acquisition, storage and transportation of explosives and explosive devices, failure to report about the preparation of a grave crime, as well as assistance to terrorism.

On December 1, Liubou Kavaliova appealed to the head of the state asking him to pardon her son.

On December 2, Aliaksandr Lukashenka, answering a questions from journalist's in the Brest region, said he would make a decision on pardoning Kanavalau and Kavaliou in the near future. "I have to sign the decree and confirm the court decision or, if I receive appeals for pardon, I must consider these documents. This is the hardest thing a President's has

to do," said Lukashenka. On one hand, he stated that what had happened was "abnormal" and "inadmissible" for Belarus, people died as a result of a terrorist act. On the other hand, there were parents of the convicts and a part of society that stood up for them. "At this point you start weighing it all. I will make a decision in the near future and will surely inform you," promised Lukashenka.

On December 6, according to BelaPAN, Uladzislau Kavaliou and Dzmitry Kanavalau, were sentenced to death by the Supreme Court in the case of the terrorist attack in the metro, and received copies of the court verdict. By that time, the Presidential Commission on Pardons had received no documents on their case. As stated by a member of the commission, Yauhen Smirnou, the commission will hardly start working on this case by the end of the year. According to the law, the clemency petition must be filed by the convict within ten days after the receipt of a copy of the verdict. The terms of consideration of such petitions aren't stipulated by the law.

On December 6, human rights activists asked the chairman of the Supreme Court of Belarus Valiantsin Sukala to issue a protest against the verdict on the application of the exceptional measure of punishment (the death penalty) against Dzmitry Kanavalau and Uladzislau Kavaliou. As reported to BelaPAN by the head of the legal service of the NGO "Belarusian Helsinki Committee" Hary Pahaniaila, the appeal was filed on December 5. As far as the criminal case on the terrorist act in the Minsk metro was considered by the Supreme Court, the verdict is without appeal, but the chairman of the court has the right to issue a protest against the verdict. "The death penalty is the most severe of all kinds of punishment under the Criminal Code of the Republic of Belarus", write the human rights defenders. "This is an inhuman punishment that infringes on a person's life. Meanwhile, human life is the most valuable benefit there is, as the right to life is natural and inalienable and is received by a man at birth. In the course of the consideration of the criminal cases on the crimes that are punishable with death, it is especially important to ensure that there is no doubt in the legality and validity of the decisions taken. There is also a possibility of judicial error during the consideration of a criminal case."

The authors of the appeal also stress: "It must be remembered that the death penalty is a right, not an obligation of the court. Therefore, the court, following the principle of humanity, may apply other penalties. In

particular, life imprisonment can be used as an exceptional measure of punishment that is alternative to the death penalty."

On December 15, the UN Committee on Human Rights registered the personal communication about the violation of the right to life, filed by Uladzislau Kavaliou's mother Liubou Kavaliova on his behalf. The case was registered under No. 2120/2011. The Belarusian authorities were sent a note demanding to suspend the execution of the sentence until the consideration of the communication by the UN Human Rights Committee. 25-year-old Dzmitry Kanavalau and Uladzislau Kavaliou were sentenced to death on November 30, 2011, on charges of organizing an explosion in the Minsk metro on April 11, 2011.

2012

On January 27 the Prosecutor General of Belarus Aliaksandr Kaniuk, stated that one of the persons sentenced to death for committing a terrorist act in the Minsk Metro bombing on April 2011, 25-year-old Dzmitry Kanavalau, declared the death verdict legitimate and refused to file a petition for clemency. According to the Prosecutor General, Kanavalau had stated it back on December 19, 2011 to members of the special commission. According to Prosecutor General, Kanavalau was twice reminded about the opportunity to file such a petition, but refused to use this right. Another defendant in the case, Uladzislau Kavaliou, who had also been sentenced to death, but had filed a petition for clemency on December 7, 2011.

On January 30 the MEPs Laima Andrikiene and Edvard Kukan, former Minister's of Foreign Affairs in Slovakia, came up with the demand to abolish the death penalty to Dzmitry Kanavalau and Uladzislau Kavaliou, and to introduce a moratorium on executions in Belarus. According to the MEPs, the court did not prove the guilt of Dzmitry Kanavalau and Uladzislau Kavaliou. Andrikiene and Kukan made their statement after a meeting with Liubou Kavaliova, the mother of one of the death convicts, in the European Parliament in Brussels.

In early February it became known that the Belarusian government considered the complaint of the death convict Uladzislau Kavaliou inadmissible, as it was filed with the Human Rights Committee and registered by it on December 15, 2011. According to the Belarusian government, it was unacceptable because it had been filed before

exhausting all domestic remedies, since Kavaliou's appeal was pending at the Supreme Court in the exercise of supervision and he also applied for pardon to Aliaksandr Lukashenka. However, the petition for supervisory review is not recognized by international bodies on human rights as a legal means of protecting one's rights because no legal procedures are initiated as a result. Petition for pardon cannot be considered as a means of legal defence, because the decisions taken are motivated not by legal, but by moral or humanitarian reasons. In practice, a death convict finds about the denial of his petition for pardon several minutes before the execution, therefore having no legal opportunity to file an individual communication with the UN Human Rights Committee and wait for its registration. That's why the demand of the Belarusian authorities to "deplete all national means of remedy", before filing such a communication with the UN was groundless. Uladzislau Kavaliou's mother explained it in her response to the commentaries, given by the Belarusian authorities to the Human Rights Committee in connection with Uladzislau's case.

Liubou Kavaliova also addressed the state bodies which have the right to apply to the Constitutional Court: the Presidential Administration, the Soviet of Ministers, the Supreme Court, the Soviet of the Republic and the Chamber of Representatives. She asked these agencies to submit proposals to the Constitutional Court on supplying the Criminal Executive Code with an article that would provide for the suspension of execution of the death sentence in connection with filing an appeal to the UN Human Rights Committee. On February 18 she received an answer from the Presidential Administration, signed by the head of the Department of Citizenship and Pardons Aliaksandr Kisialiou. There it was stated that a complex analysis of the legislation with the participation of competent state agencies was necessary for considering her proposal.

On February 27, relatives of the death convict Ihar Mialik stated they hadn't received letters from him for more than a month, though he used to write them every week. They expressed fear that the death sentence could have been be carried out. Ihar Mialik was sentenced to death by the Mahilioŭ District Court on September 14, 2010 for committing a series of murders, robbery, theft in a criminal group, and illegal actions with firearms and ammunition.

On February 11, 2011 the Board of the Supreme Court left the sentence unchanged.

On February 13, Valiantsin Stefanovich received an answer from the Presidential Administration to his request to introduce a moratorium on the death penalty (the appeal was sent on December 9, 2011, on the eve of the Human Rights Day). The response states that “the Republic of Belarus has been consistently moving towards limiting the use of the death penalty”. “The movement towards the elimination of the death penalty from the list of criminal penalties cannot be identical in different countries of the world. It is impossible to change the historically predetermined attitudes towards this issue immediately,” read the reply, signed by the Head of the Department of Citizenship and Pardons Aliaksandr Kisialiou.

On February 14, the President of the European Parliament Martin Schulz addressed Aliaksandr Lukashenka with the request to pardon Uladzislau Kavaliou and Dzmitry Kanavalau, who were standing on death row. He said that, “We oppose the death penalty in all circumstances, and call on Belarus, the last country in Europe which uses it, for a moratorium on the death penalty”.

On February 16, the European Parliament adopted a resolution on the death penalty in Belarus, which condemned the death sentences issued to Kavaliou and Kanavalau and insistently urged Aliaksandr Lukashenka to pardon these persons and introduce a moratorium on death sentences and executions with a view to abolishing the death penalty from the penal system by ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, in accordance with international standards.

European Parliament resolution of 16 February 2012 on the death penalty in Belarus, in particular the cases of Dzmitry Kanavalau and Uladzislau Kavalyou (2012/2539(RSP))

The European Parliament,

– having regards to its resolution of 17 December 2009 on Belarus(1) and to its other resolutions on that subject, in particular those of 15 September 2011(2) , 12 May 2011(3) , 10 March 2011(4) and 20 January 2011(5) ,

– having regards to its resolution of 7 October 2010 on the World Day against the Death Penalty(6) and to its previous resolutions on the abolition of the death penalty, in particular that of 26 April 2007 on the initiative for a universal moratorium on the death penalty(7) ,

– having regards to United Nations General Assembly Resolution 65/206 of 21 December 2010 calling for a moratorium on the death penalty, as well as to its previous resolutions of 2007 and 2008 on the death penalty,

– having regards to the OSCE Parliamentary Assembly resolution of 6-10 July 2010 on the death penalty,

– having regards to Council of Europe Parliamentary Assembly Resolution 1857 (2012) of 25 January 2012 on the situation in Belarus,

– having regards to the statement of 1 December 2011 by EU High Representative Catherine Ashton on the death sentences in Belarus,

– having regards to EP President Martin Schulz's statement of 24 January 2012 condemning the death sentences handed down to Dzmitry Kanavalau and Uladzislau Kavalyou,

– having regards to the EU Foreign Affairs Council decision of 23 January 2011 concerning restrictive measures against Belarus,

– having regards to Article 2 of the Charter of Fundamental Rights of the European Union,

– having regards to the Declaration of the Eastern Partnership Summit adopted in Prague on 7-9 May 2009 and the Declaration on the situation in Belarus adopted on the occasion of the Eastern Partnership Summit in Warsaw on 30 September 2011,

– having regards to Rule 122(5) of its Rules of Procedure,

A. whereas Belarus remains the only country in Europe that exercises the death penalty and still carries out executions;

B. whereas in July 2011 Aleh Hryshkautsou and Andrei Burdyka were executed when their cases were still pending before the UN Human Rights Committee and whereas, according to human right activists, around 400 people have been executed in Belarus since 1991;

C. whereas the most recent death sentences were handed down on 30 November 2011 against Dzmitry Kanavalau and Uladzislau Kavalyou by the Supreme Court of the Republic of Belarus for allegedly committing terrorist attacks in 2005 in Vitebsk, in 2008 in Minsk, and in the Minsk metro in April 2011;

D. whereas, according to credible reports (FIDH, Human Rights Watch), there are arguments showing that prosecutors and the Belarus Supreme

Court held an unfair trial and that the investigation was marred by serious human rights abuses and an intentional disregard of important evidence indicating the innocence of the two men and whereas, according to observers of the trial, there were serious procedural violations during the preliminary investigation and the judicial examination of the case;

E. whereas Dzmitry Kanavalau and Uladzislau Kavalyou were denied access to lawyers, whereas credible reports indicate the use of torture in order to extract confessions during interrogations, whereas there is no forensic evidence linking either of the men to the explosion, and whereas no traces of explosive material were found on the clothes or bodies of the men;

F. whereas all the important evidence that the prosecution referred to during the trial was destroyed immediately after the Supreme Court announced its decision;

G. whereas, under Article 14, Section 1, of the International Covenant on Civil and Political Rights, ratified by the Republic of Belarus, 'everyone has the right to a fair and public hearing by a competent, independent and impartial tribunal';

H. whereas Mr Kanavalau's parents have been intimidated and put under surveillance by secret service officers, and men in plain clothes have been permanently stationed near their home, so that the family has for months been deprived of the opportunity to communicate with the outer world;

I. whereas the death penalty still remains a 'state secret' in Belarus and, according to the Belarusian Criminal Executive Code, the dates of the executions are unknown to death row inmates, the families of the convicted and the public; whereas the death penalty is carried out in private by shooting, the body of an executed person is not given for burial to his or her relatives, and the place of burial is not communicated;

J. whereas the executions of Mr Kanavalau and Mr Kavalyou may be carried out very soon;

K. whereas the decision of the Supreme Court on the case is final, without appeal; whereas under Belarusian law a petition for mercy can be considered by the president of the country; whereas Uladzislau Kavalyou has asked Alyaksandr Lukashenka for pardon, denying all the charges and demanding to be released from criminal responsibility, but has received no response so far;

L. whereas the Belarusian authorities have signed the Prague Declaration of the Eastern Partnership Summit, in which they committed themselves to ‘the principles of international law and to fundamental values, including democracy, the rule of law and the respect for human rights and fundamental freedoms’;

1. Reiterates that the European Union and other international institutions have repeatedly urged the Belarusian authorities to abolish the death penalty;

2. Underlines the fact that this irreversible, cruel, inhumane and degrading punishment, which violates the right to life, is unacceptable; deplores the continuing failure of the Belarusian authorities to take any tangible steps towards abolition of the death penalty or the immediate introduction of a moratorium on it;

3. Condemns the death sentences handed down to Mr Kavalyou and Mr Kanavalau and urges Alyaksandr Lukashenka to pardon both men and establish moratorium on all death sentences and executions with a view to abolishing the death penalty from the penal system by ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, in compliance with international standards;

4. Calls on the competent authorities in Belarus to carry out a full, fair and impartial investigation of the allegations made in this context and to provide true justice for the victims of the heinous acts of terrorism in question;

5. Urges the Council and the Commission to use all available tools of diplomacy and cooperation assistance to work towards the abolition of the death penalty in Belarus;

6. Calls on the Eastern Partnership countries and Russia to urge Belarus to introduce a moratorium on the death penalty;

7. Strongly encourages Belarusian civil society and non-governmental organisations to work on the abolition of the death penalty;

8. Calls on the Belarusian authorities to resume the work of the parliamentary working group on the death penalty started in 2010, to bring domestic legislation into line with the country’s obligations under international human rights treaties and to ensure that the internationally recognised standards for fair trials are rigorously respected;

9. Encourages the Belarusian authorities to promote the role of the judiciary in Belarus and its activity without interference or pressure from the executive, to implement the recommendations of the UN Special Rapporteur on the independence of judges and lawyers, to ensure appropriate publicity for the judicial process, and to conform with the OSCE Human Dimension commitments, particularly in the field of the rule of law;

10. Condemns the continuous persecution of human rights defenders and members of the democratic opposition and the harassment of civil society activists and the independent media in Belarus for political reasons; demands the immediate release of all individuals convicted for political reasons who are imprisoned or undergoing other forms of punishment, including Ales Bialiatski, Chair of the Human Rights Centre 'Viasna' and Vice-President of FIDH;

11. Demands the unconditional immediate release of all political prisoners; welcomes the EU Foreign Affairs Council decision of 23 January 2012 to broaden sanction criteria that pave the way for future designations of those responsible for serious human rights violations or for the repression of civil society and the democratic opposition in Belarus, and reiterates that there cannot be any progress on EU-Belarus dialogue without progress by Belarus towards democracy, human rights and rule of law, and until all political prisoners, including the two former presidential candidates Mikalai Statkevich and Andrei Sannikau, heads of the presidential campaigns of democratic opposition candidates Pavel Seviarynets and Dzmitry Bandarenka, and Syarhey Kavalenka, a political prisoner detained for alleged breach of house arrest, who has been on a prolonged hunger strike which has led to a critical deterioration in his health and is directly threatening his life, are unconditionally released and their civil rights fully reinstated;

12. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States, the Government and Parliament of the Republic of Belarus, the Council of Europe and the Organisation for Security and Cooperation in Europe.

(1) OJ C 286 E, 22.10.2010, p. 16.
(2) Texts adopted, P7_TA(2011)0392.
(3)Texts adopted, P7_TA(2011)0244.
(4)Texts adopted, P7_TA(2011)0099.
(5) Texts adopted, P7_TA(2011)0022.
(6) OJ C 371 E, 20.12.2011, p. 5.
(7) OJ C 74 E, 20.3.2008, p. 775.

In the evening of March 13 it was announced on TV that Aliaksandr Lukashenka refused to pardon Uladzislau Kavaliou and Dzmitry Kanavalau, sentenced to death on November 30, 2011 on charges of committing a terrorist act in the Minsk subway on April 11, 2011. The sentence was carried out on March 15. On March 16, the Supreme Court sent an appropriate notice to the relatives of the executed.

The extremely fast execution was in violation of national and international mechanisms of protection, with an open disregard for national laws and international treaties ratified by the Republic of Belarus.

Dzmitry Kanavalau did not file a supervisory appeal and refused to file a petition for clemency, whereas Uladzislau Kavaliou tried to use all possible means of protection. On March 15, the day when the sentence was executed, Kavaliou's lawyer filed the main supervisory complaint. The preliminary supervisory complaint was directed to the chairman of the Supreme Court on December 7, 2011. There it was stated that the main complaint would be passed too, that's why the lawyer asked to suspend the execution of the sentence till its consideration. However, the appeal was ignored, and therefore it can be argued that the convicted person was deprived of the constitutional right to protection at the national level. Implementation of the death penalty was another breach of Belarus's international obligations under the International Covenant on Civil and Political Rights and its First Optional Protocol thereto, as far as the Belarusian side ignored the requirement of the UN Human Rights Committee to suspend the implementation until consideration on the merits of the individual communication filed by Uladzislau Kavaliou.

On March 20 Aliaksandr Lukashenka, who personally refused to pardon U. Kavaliou and Dz. Kanavalau, stated that he sympathized with the families of the executed.

On March 22 Uladzislau Kavaliou's mother sent a letter to Aliaksandr Lukashenka with the request to give her the son's body so that she could bury it. As the Belarusian legislation does not provide for such a procedure, a positive decision on this issue is unlikely. On the same day she received by mail a package from the KGB prison, in which there were her son's things, clothes and even the food which he didn't have time to eat. However, she wasn't given the records he was making during the trial and asked the relatives to retain obligatory. European parliamentarians, the Council of Europe and a number of influential international human

rights organizations, including Amnesty International, FIDH and Human Rights House Foundation, strongly condemned the execution of Uladzislau Kavaliou and Dzmitry Kanavalau, demanding that Lukashenka immediately impose a moratorium on the death penalty.

On April 5 Liubou Kavaliova and Tatsiana Kaziar, mother and sister of executed death convict Uladzislau Kavaliou, received information from the Office of the High Commissioner for Human Rights. This information was sent by representatives of the Government of Belarus to the UN office in Geneva on March 15, 2012 – the day when Uladzislau Kavaliou was shot. Representatives of Belarus informed the Human Rights Committee that a supervisory appeal was filed to the Supreme Court by Kavaliou and the president was considering his request for clemency, and the execution would be suspended until their consideration.

On April 11 a former chairman of the Constitutional Court and the Prosecutor General of Belarus Ryhor Vasilevich said in an interview to the European Radio for Belarus that the death penalty could be abolished without a referendum saying, "The results of the voting at that referendum were advisory, and a different decision could well be taken. However, the head of the State and the Parliament represent the people, each citizen's opinion is very important for them and influences their decisions. One can understand them – 80% of the votes! But if we ignore it, then the issue can be resolved by modifying the Criminal Code. Solutions to this problem can be very different. Perhaps a moratorium can be introduced."

On April 30 Uladzislau Kavaliou's mother Liubou Kavaliova filed a complaint with the head of the KGB jail, demanding the return of the notes that had been taken by her son during the trial. After the execution she had received a parcel from the KGB prison with her son's belongings. However, the writings of Uladzislau Kavaliou were missing. The mother thinks that the investigation and the court which sentenced her son to death weren't objective and the yellow folder could contain some information which the KGB prison was reluctant to disclose.

On May 7 the mother and sister of Uladzislau Kavaliou, one of the convicted and executed for the terrorist act in the Minsk subway, addressed Aliaksandr Lukashenka with the proposal to adopt a decree allowing to issue the bodies of the executed to their families, and inform the families about the places of burial of those who had been executed earlier. They propose to abolish paragraph 5 of Article 175 of the Criminal-Executive

Code, because “there is no reasonable justification for the non-issuance of the executed bodies to relatives or hide the place of burial from them”. The relatives of Uladzislau Kavaliou proposed to amend the legislation because they believe that existing regulations are extremely cruel and inhumane in relation to the relatives of the executed.

On May 8, during his annual speech to Parliament and the people in May 2012, A. Lukashenka answered the question of MP Samaseika regarding the death penalty and the possibility of introducing a moratorium on it. He said,“I will never introduce a moratorium myself. I know the people’s moods. You can turn your TV off. Two villains break into an apartment, kill your daughter, rape her and throw in the bath. What shall we do with them? I instantly reject a petition for clemency. Do you know what the last two death sentences, when the whole world presses on you, cost me? I am the President and I have to do as society wants. If you are a scoundrel and a bastard and make an offence, be prepared to answer for it. Although, maybe, society has come to a moratorium.”

2013

In March 2013, the anniversary of the execution of Uladzislau Kavaliou and Dzmitry Kanavalau, sentenced to death on accusations of terrorism, was marked. Pitifully enough, the exact date of their execution remains unknown, although one may assume that it happened during the period between March 11 and 15.

On March 13, a press conference with the participation of Uladzislau Kavaliou’s mother and human rights defenders was held. Liubou Kavaliova stated that she had finally received an answer to her review appeal to the Supreme Court, filed back in September 2012. The answer, signed by the chairman of the Supreme Court, was eventually found at the Lieninski District Bar Association of Minsk, where her lawyer worked. As it turned out, the answer was given in November 2012. “The Supreme Court, on behalf of its chairman Sukala found no violations of the norms of the Code for Criminal Procedures in the case of Uladzislau Kavaliou,” read the answer. Human rights defender Raman Kisliak pointed out that it was important to find out which institution implemented the death verdict to Kanavalau and Kavaliou, that it can be either remand prison No. 1 of the Ministry of Internal Affairs, where death convicts are usually held, or the remand prison of the KGB where Kavaliou was held. “It is necessary to

establish which agency executed the verdict in order to understand what further actions should be taken, from whom further answers are to be demanded," said R. Kisliak. According to him, the next action will be the demand to disclose the place of burial of U. Kavaliou. R. Kisliak also stated that human rights defenders intended to demand the elimination of the legal norm according to which the bodies of the executed convicts aren't issued to their relatives. According to the decision of the UN Human Rights Committee, the concealment of such information from relatives is regarded as "inhuman treatment".

Last year, on December 10, 2012 Belarusian human rights organizations declared Liubou Kavaliova the "Human rights activist of the year" for her struggle against the death penalty in Belarus and the wish to protect her son's good name. According to the results of the voting at the website "Narodnyja Naviny Viciebska" ("Popular News of Viciebsk"), Liubou Kavaliova became "Person of the year in Viciebsk – 2012".

On June 14, the Homieĺ Regional Court issued a death verdict in a criminal case against a 25-year-old resident of Homieĺ, Aliaksandr Hrunou, charged with murdering a student of Homieĺ State University, Natallia Yemialyanchykava, with special cruelty. The crime was committed on September 19, 2012, the victim suffered 102 stab wounds. The girl died just a few steps outside her house. Aliaksandr Hrunou pleaded guilty during the trial. In 2005, he was sentenced to 8 years of imprisonment for inflicting grievous bodily harm resulting in death – he had beaten to death his mother's cohabitant. He killed the girl only after a year at liberty. The public prosecution demanded the death penalty for him during the previous hearing, on June 4. „The accused presents a high danger to the society and must be given the hardest punishment possible," stated the prosecutor. The psychiatric examination found Aliaksandr Hrunou mentally healthy, he was not in a state of temporary insanity at the time of the murder. He didn't suffer from alcohol or drug dependence. However, he had a mixed personality disorder. At the trial the defendant admitted his guilt completely. He stated that around June-July 2012 he had been in a group of people with Natallia Yemialyanchykava, and she had insulted him. On September 10 he was travelling on a bus with his mistress and a friend, and met Natallia. He knew where she lived, as he was acquainted with her brother. He got off the bus one stop away from the house where the victim lived and ran through the yards. He waited until the girl came to the entrance of her house, and then attacked her with a knife.

On June 12 the mother of the accused told the journalists that if the girl who had insulted his son had apologized, the tragedy could have been avoided. According to the mother, the son defended his dignity, and „earlier, people fought at duels for insults, so why couldn‘t my son defend his dignity?" She would have liked the son to be sentenced to 25 years in prison. „He has seen no good in this life, and now they are asking for his death. His father was murdered when he was a child and the killers haven‘t been ever found. Yes, he murdered my cohabitant but that one was a tramp who collected bottles, he defended his girlfriend as she had a conflict with him," stated the mother.

A member of the Belarusian Helsinki Committee Viktar Adzinochanka, who attended the trial, spoke against the death penalty: "We oppose the death penalty in principle in any cases, irrespective of the crimes. However, in this case I am against sentencing him to death from purely human considerations. To my mind, this man behaves inadequately, he doesn't even defend himself. He had an opportunity to say his last plea, but he kept silent." Homieĺ Regional Court sentenced Aliaksandr Hrunou to the exceptional measure of punishment, shooting. The defendant challenged the verdict at the Supreme Court.

On June 21 Hrodna Regional Court sentenced to death a 23-year-old resident of Viliejka, Pavel Sialiun, finding him guilty under four articles of the Criminal Code: part 2 of Article 139, parts 1 and 6 (the murder of two persons with particular cruelty), Article 205, part 1 (theft), Article 347, part 1 (desecration of corpses) and Article 378 (theft of personal documents). The case was considered by Judge Anatol Zayats.

The mother of the death convict applied to the Patriarchal Exarche of the whole Belarus Filaret. In her letter, Tamara Sialiun states that her son deeply regrets about the lost lives of his victims and sympathizes with their friends and relatives. "However, I am his mother and I am concerned with his fate. Of course, he must serve a penalty, but not by taking away the life which was granted byGod. I heard over the radio that you are also against the death penalty, and your ecclesiastical rank inspires it too. You are respected by the President, that's why I apply to you with a request: "please, address Aliaksandr Lukashenka with a petition for clemency and get the death verdict to my son abolished".

The coordinator of the campaign "Human Rights Defenders against the Death Penalty" Andrei Paluda, stated that on September 17 the Supreme Court would consider the cassation appeal of Pavel Sialiun against the

verdict. "We think that the defendant must get a due punishment, but are blankly against the death penalty", said the human rights defender. The Patriarchal Exarche of Belarus, Metropolitan Filaret repeatedly issued statements about the reasonableness of refusing from the death penalty.

"The Belarusian Orthodox Church has insistently drawn the public attention to the issue of the death penalty back in the 1990s. In 1996, on the eve of the people's referendum, at which, among other things, the issue of the death penalty was discussed, we called upon the people of Belarus to refuse from such a punishment. "We, Christians, cannot justify the death penalty, as murder is a sin... The life of every human belongs to the Creator, God. If we, sinful people, haven't given life to a man – we must not deprive him of life. Lord Jesus Christ sacrificed his life for each of us, endured suffering, humiliation, abuse, and death on the Cross... The State re-crucifies Christ each time it executes its citizens. This was our position in the year of the referendum. To date, it has remained unchanged."

The rock concert "Last Dawn", dedicated to the issue of the use of the death penalty in Belarus, was held on October 5 in Białystok. Thanks to the online broadcasting, it was watched by thousands of Belarusians, regardless of the border between Poland and Belarus, the "blacklisting" of the musicians who took part in the concert, and a ban on the discussion of the topic of the death penalty in the public space in Belarus.

According to the coordinator of the campaign, "Human Rights Defenders against the Death Penalty in Belarus" Andrei Paluda, the idea to organize the concert came to him several years ago. "We have always understood the importance of the informational component of the campaign, it is necessary to distribute the information on the death penalty in the country as wide as possible. For this purpose, we recorded the video, where famous Belarusians and other people expressed their opinions on this matter. Then we came to the idea that musicians can reflect their position in the best way not through words, but through songs. That's how the idea to hold this special concert was born."

The project was recorded in Białystok Philharmonic Hall. Musical accompaniment was practically orchestral. The idea of the concert was to combine several types of art, so each song was accompanied by video installations and live sand pictures which supplemented the songs, giving additional information on the death penalty. The views of famous people on the death penalty were voiced as well. Sting, Uladzimir Arlou,

Valiantsin Stefanovich and Adam Hlobus raised their voices against the death penalty.

At the concert, each performer presented two songs dedicated to the topic of the death penalty. Liavon Volski sang about crucifixion, Aliaksandr Pamidorau about gas chambers, Hanna Khitryk chose the topic of guillotine, Ales Dzianisau shootings, Nasta Shpakouskaya wrote a song about the electric chair, Viktar Rudenka sang about poisoning, and Zmiter Vaitsiushkevich about the gallows.

After the concert, Aliaksandr Pamidorau said, “The topic of the death penalty is very difficult. It is important that we, musicians, are given the opportunity to express our position. The concert went even better than we expected.”

The project “Last Dawn”, was organized with the support of the Human Rights Center “Viasna” and was timed to the World Day against the Death Penalty, which is marked on October 10. The same day, the recording of the concert was broadcast again.

On the occasion of the World Day Against the Death Penalty the central office of the Human Rights Center “Viasna” hosted a press conference with the participation of human rights defenders and relatives of those sentenced to death.

The event was held in the framework of the Week against the death penalty, which was held on the initiative of the campaign “Human Rights Defenders against the Death Penalty in Belarus”. According to the campaign’s coordinator Andrei Paluda, the information weeks will now take place annually, as long as Belarus retains the capital punishment.

The press conference was attended by the mother of Uladzislau Kavaliou, who had been sentenced to death and executed in 2011. She noted that the society was not informed about the death penalty, many people did not realize that Belarus still retained the death penalty. “I myself had no idea about it until I faced this problem,” said Mrs. Kavaliova.

Andrei Paluda says the lack of awareness is due to the fact that the public lacks open discussion. In addition, the government ignore information regarding the detention of prisoners and the execution of sentences.

Valiantsin Stefanovich said that a moratorium on or abolition of the death penalty in Belarus was a political issue. “The academic circles confirm that

the presence of the death penalty has no effect on the crime rate. Officials constantly say that we have come to a moratorium. But the decision is postponed all the time, reportedly due to the pressure from the EU. But we should impose a moratorium for the European Union not for PACE, but for Belarusian society," he said.

Human rights defenders and the mother of the death convict Pavel Sialiun, addressed the President asking for mercy and an alternative punishment for the youth.

On October 2, the UN Human Rights Committee registered his individual complaint. He is represented by the coordinator of the campaign "Human Rights Defenders against the Death Penalty in Belarus", Andrei Paluda.

On November 26, 2013, the Minsk Regional Court sentenced to death 53-year-old Eduard Lykau, who was found guilty of five murders, committed in a state of alcoholic intoxication. The investigative and judicial bodies started speaking about Lykau's case only after this information had been disseminated by activists of the HRC "Viasna". Neither the prosecutor's office, nor the Investigations Committee, nor Minsk Regional Court made any public statements about this case before that.

2014

On April 8, 2014 the Supreme Court again upheld the death verdict to the 26-year-old Homieĺ resident Aliaksandr Hrunou who had killed student Natallia Yemialyanchykava in September 2012. The convict is trying to file a supervisory appeal against the verdict, his lawyer filed a complaint with the chairman of the Supreme Court. The lawyer draws attention to five circumstances that greatly mitigate the guilt of Hrunou that were, nevertheless, ignored by the Homieĺ Regional Court and the Supreme Court. This is a sincere repentance, a full confession of guilt, voluntary surrender, voluntary cooperation with the investigation and the unlawful or immoral actions of the victim, Natallia Yemialyanchykava. As it is indicated in the case, Hrunou explained his deed (the murder of N. Yemialyanchykava) as follows. In summer 2012 he and Yemialyanchykava were drinking alcohol in the same company. At some point there arose a conflict between Yemialyanchykava, Hrunou and his mistress. Yemialyanchykava called Hrunou a fag, knowing that he had been serving a term in prison, and said that she would call her friends and they would rape him. Hrunou took this word to be a very serious

personal offence, for which the student didn't apologize. On September 19, 2012 he met her on a bus and recalled that conflict. After she went off, he caught up with her, waiting for apologies. However, instead of apologizing to him she answered rudely, using foul language. According to para. 8 of Art. 63 of the Criminal Code, the circumstances that mitigate criminal responsibility include the situation when the crime was committed under the influence of illegal or immoral acts on the part of the victim. The psychologists who had conducted the examination of the personality of Aliaksandr Hrunou and were questioned at the trial, stated that any severe insult wouldn't drive him to take any action right away. However, when Hrunou started thinking about an offence, it could provoke intense anger. The experts also explained that if Yemialyanchykava had apologized he could have simply gone away. It's worth noting that during the trial the defendant constantly stated that he was aware of his guilt and didn't deny it. However, in such circumstances there is the possibility to replace the death penalty with its alternative, life imprisonment. This is the request with which he appealed to the Presidential Commission on Pardons. It should be noted, however, that even before the announcement of the final verdict Aliaksandr Lukashenka, while meeting the Prosecutor General, Aliaksandr Kaniuk, stated that Hrunou deserved only the death penalty. On April 10 Aliaksandr Hrunou's communication was registered at the UN Human Rights Committee. According to para. 92 of the Rules of Procedure of the Committee, the State should suspend the execution of a death verdict until the appeal is considered on its merits by the Committee.

On October 10, the World Day against the Death Penalty, Belarusian human rights activists gave a final press conference on the Week against the Death Penalty in Belarus.

Human rights activists, journalists and representatives of European Embassies (including Deputy Ambassador of the United Kingdom David Spires and Deputy Ambassador of Bulgaria Ivaylo Ivanov) gathered at the office of the Human Rights Center "Viasna"

At the beginning of the press conference "Belarus in the context of the global abolitionism" the coordinator of the campaign "Human Rights Defenders against the Death Penalty in Belarus" Andrei Paluda presented the overall figures and tendencies on the death penalty in the world, referring to the latest thematic report of the human rights organization Amnesty International.

According to the report, in 2013 executions were carried out in 22 countries, which is one more than the previous year. The total number of officially reported executions in the world is 778, 15% more than in 2012. But since 2009, due to lack of reliable information, Amnesty International has not published information on the death penalty in China, where it is a state secret, and thousands of executions are carried out.

Apart from China, nearly 80% of all known executions in the world have been reported in three countries: Iraq, Iran and Saudi Arabia. The five notorious leaders include the United States – the only country in North and South America where nine people were executed in 2013. At the same time, as noted in the report, the number of executions there continues to decline, and Maryland became the 18th state to abolish the death penalty.

Amnesty International states: in spite of these alarming developments, the overall evidence indicates that the trend towards abolition of the death penalty in the world continues.

"With regard to Belarus, our country is presented in this report as the last country in Europe and Central Asia where the death penalty is still used. In 2013, according to available information, no death verdicts were executed in Belarus, but at least four were issued. As you know, two of them were enforced in the spring of 2014 – against Pavel Sialiun and Ryhor Yuzepchuk. At least two people are now awaiting execution – Eduard Lykau and Aliaksandr Hrunou. These sentences can be enforced at any time, because, athwart the demands of international bodies, in particular the Human Rights Committee of the United Nations, Belarus does not suspend executions of the individuals whose cases are pending at the committee," said Andrei Paluda.

In their work on the issue of the death penalty, human rights defenders use mechanisms of the international organizations where Belarus is represented – the UN and the OSCE. Belarus is a state party to a number of covenants and conventions, which allows for the use of these mechanisms. Valiantsin Stefanovich, deputy chairman of the HRC "Viasna", told about the activities in this direction. One of the main steps is the use of the Universal Periodic Review, the second round of which Belarus will pass at the Human Rights Council of the United Nations in April 2015.

"A coalition of 11 human rights organizations in Belarus has developed an alternative review, which was sent to the Human Rights Council of the UN in September. And one of the first issues of this alternative review is

the right to life. Here we note that Belarus, which took on the obligation to abolish the death penalty, continues to use it. Since 2010, since the first passage of the UPR by Belarus, we have learned about the execution of nine persons. We are particularly concerned that in five cases the death penalty was enforced despite the fact that the individual appeals of these persons had been registered in the UN Human Rights Committee, and Procedure 92 of the Rules of Procedure of the UN HRC was initiated for them, which means that the Belarusian Government was informed by the Committee about the registration of these appeals and that the sentences could not be enforced prior to the consideration of these appeals on the merits. Belarus, in violation of its international obligations, carried out the execution of these death sentences. We also note the ongoing delivery of death verdicts by the Supreme Court of Belarus in the first instance, which implies that the verdicts are without appeal. Let me remind that this was the case with Kavaliou and Kanavalau, who were executed by shooting within two months after the sentencing by the Supreme Court. We also call on Belarus to change the procedure for execution of the death penalty, which has been repeatedly recognized by the UNCHR as inhuman treatment. We ask the countries represented in the Human Rights Council of the UN to recommend Belarus to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, thus committing itself to a moratorium on the death penalty, as well as to change the criminal law in terms of procedures for execution of the death sentence and imposing a moratorium on or abolition of the death penalty," stated the human rights activist.

Mr. Stefanovich also added that Belarus did not fulfil its obligations in terms of bringing the decisions taken by the UN Human Rights Committee to the citizens of the republic. "As you know, the HRC adopted two decisions about violation of the right to life by the Belarusian state – against Andrei Zhuk, who was shot in 2010, and Uladzislau Kavaliou, shot in 2012. The state was to have published these decisions in the official media within 180 days from the date of their adoption. Human rights defenders took this function to themselves within the campaign "Human Rights Defenders against the Death Penalty in Belarus," having published the HRC decision in the case of Uladzislau Kavaliou and informing the public about it.

Valiantsin Stefanovich also spoke about the position of the OSCE and the Council of Europe towards Belarus, in the events of which he had participated during the past two weeks.

He reminded that only two countries used the death penalty in the OSCE region, the United States and Belarus. And the OSCE has repeatedly adopted resolutions calling for these countries to impose a moratorium or abolish the death penalty. In the course of the latest Conference on the Human Dimension of the OSCE there was held a plenary session, where this recommendation was given to Belarus again.

The human rights activist stressed that the topic of the death penalty was being mentioned in the Council of Europe in line with the attempts of the Belarusian authorities to improve their image in the relations with the European Union and the USA:

"In the light of the latest events happening around Belarus, Lukashenka has become such a "dove of peace", and many people in the Council of Europe started talking about "windows of opportunities" for Belarus. To my mind, MP Samaseika's question about recovery of the special guest status in the Council of Europe was not incidental. The status was frozen after the referendum of 1996, and now is discussed at the Council of Europe again.

I met with the Secretary General of the Council of Europe Thorbjørn Jagland, who also said that the dialogue with Belarus was extremely important for them. I should remind that Belarus is the only European country that is not included in the Council of Europe. On the other hand, Mr. Jagland also stressed the importance of keeping to the values in such a dialogue, and one of the basic values of the Council of Europe is the right to life. Therefore, the country can not become a member of the Council of Europe without a moratorium on the death penalty," commented the activist.

Valiantsin Stefanovich also said that Belarusian human rights activists support the accession of Belarus to the Council of Europe, which means ratification of the European Convention on Human Rights, recognizing the competence of the Strasbourg Court of Human Rights and declaring a moratorium on the death penalty. The human rights activist welcomed the fact that the European embassies in our country have created an informal working group on the abolition of the death penalty in Belarus (currently the group includes the Embassies of the United Kingdom, the Czech Republic, Poland, Bulgaria, France and Italy) with the aim to promote the issue of a moratorium on the death penalty.

"However, I would like to emphasize that we are asking for a moratorium on the death penalty not only because it is a question of Belarus' membership

in the Council of Europe. First of all, the moratorium is needed for the Belarusian society, because we can not talk about the humanization of the society when the state allows itself to kill its citizens," summarized the human rights activist.

The honoured guest of the Week against the Death Penalty, world-known abolitionist Tamara Chikunova, chairperson of the Uzbek organization "Mothers against the Death Penalty and Torture", focused on the fact that responsibility for the killings in the country goes to the whole society. "We need to understand that if those who have broken the law are punished with death on our silent agreement – we take revenge on them, justifying ourselves by law. How can we be better than those who committed the crime? We say that there can't be an excuse for murder. So what excuse can we have if we support the law on the death penalty? I have very warm feelings for the kind-hearted Belarusian people and wish you to get rid of the death penalty – a crime against humanity. I myself went through the horror of the execution of my only son and I want to tell you: there is no justice in the death penalty. I am working to prevent grief from coming to people's homes in the form of the death penalty..." said Tamara Chikunova.

The human rights activist noted the importance of cooperation on the issue of the death penalty with international organizations. She also praised the priceless support from a Christian organization, the Community of Sant'Egidio (centered in Rome), with which she has cooperated for many years by now.

Tamara Chikunova also told reporters about the work of her organization for abolishing the death penalty in the countries of Central Asia and the peculiarities of the law abolishing the death penalty in Uzbekistan, in the drafting of which she was directly involved.

2015

In January, Volha Hrunova, the mother of Aliaksandr Hrunou, who had been executed on charges of murder, received first answers to her petitions demanding to amend legislation prohibiting the disclosure of the burial place of executed prisoners. Liliya Maroz, chairperson of the Standing Committee for legislation and state-building of the Council of the Republic of the National Assembly, replied that there were no contradictions between the national legislation and the country's Constitution and the International Covenant on Civil and Political Rights.

Deputy chairman of the Supreme Court Valery Kalinkovich responded to the woman's petition in just one sentence: "The Supreme Court sees no reason to introduce a proposal to the Constitutional Court on the constitutionality of the question raised."

Liudmila Mikhalkova, chairperson of the Standing Committee for Legislation of the House of Representatives of the National Assembly of Belarus, said that the refusal to issue the body for burial and the failure to report the burial site could not be regarded as a criminal sanction appointed by a court. "Non-issuance of the body can be treated as a separate administrative and legal enforcement decision", wrote Ms. Mikhalkova. "In such cases, the refusal serves as a measure of an administrative nature, which has a preventive purpose and at the same time is a definite limitation of the rights guaranteed by the Constitution", stated the MP. At the same time, she argued that the execution of a death verdict should be carried out so as to inflict the minimum possible suffering: "Obviously, this refers not only to the suffering of the convict, but also to that of other people."

In February, the families of several death convicts continued their attempts to force the relevant state bodies to initiate changes in legislation and practice in order to receive information about the burial place of their executed relatives and be allowed to receive their bodies for burial.

Volha Hrunova, the mother of Aliaksandr Hrunou, executed on murder charges in April 2014, received a reply from the Presidential Administration signed by the head of the main department for work with appeals of citizens and legal entities Stanislau Buko. The official refused to initiate before the Constitutional Court the question of changing the legislation prohibiting relatives of death convicts to receive the body for burial. "The limitation, which is established by Article 175 of the Criminal Executive Code, is dictated by the need to ensure public order and the protection of morals, because the information about the burial place of a convicted person may provoke negative behaviour on the part of relatives and friends of the victims of the crime, as well as lead to other excesses," said the Presidential Administration representative. A similar reply was issued by the Council of Ministers. "Please be informed that the Presidium of the Council of Ministers decided to dismiss your request for a proposal to the Constitutional Court on the audit of Article 175 of the Criminal Executive Code for compliance with the Constitution," wrote the head of the department for work with citizens and legal entities of the Council of Ministers, L.Astrouskaya.

Volha Hrunova didn’t manage to achieve a solution to the painful question through the court system. In early February, Judicial board on civil cases of the Homieĺ Regional Court dismissed her claims, upholding the verdict of the Centraĺny District Court of Homieĺ, which refused to institute civil proceedings against the Homieĺ Regional Court and the Department of Corrections, who refused to disclose the burial place of her son Aliaksandr Hrunou. Volha Hrunova filed a supervisory appeal to the chairman of the Homieĺ Regional Court Siarhei Shautsou and simultaneously submitted a complaint to the United Nations Human Rights Committee. Volha Hrunova asked the Committee to establish the fact of cruel, inhuman or degrading treatment by the state, and to recommend the Government of Belarus to bring the national legislation and practice in this part in accordance with the international obligations of the country.

In February, a similar attempt to initiate a change in the law on extraditing the bodies of executed prisoners and receiving information about the place of their burial was launched by Tamara Sialiun, mother of Pavel Sialiun, executed in the spring of 2014. She filed a lawsuit against the Hrodna Regional Court and the Department of Corrections of the Ministry of Internal Affair to the Lieninski District Court of Hrodna. There she stated that the Hrodna Regional Court referred to Article 175 of the Criminal Executive Code to refuse to disclose the burial site and hand over the body for burial.

On March 18, the Homieĺ Regional Court sentenced Siarhei Ivanou, 21, to death on charges of murdering and raping a 19-year-old girl. The investigation revealed that at the time of the murder the accused was drunk and used psychotropic substances. The young man attacked the girl for the purpose of rape. As a result, the victim died of brutal beatings and numerous serious injuries. After the murder, the offender took the victim’s valuables. The court found the defendant guilty of hooliganism, which was accompanied by violence, committed repeatedly by a group of persons under Part 2, Art. 339 of the Criminal Code; intentionally causing serious bodily injury, endangering the life of the victim from molester motives provided by para. 7. Part 2, Article 147 of the Criminal Code; robbery related to the use of violence dangerous for life and health of victims, committed repeatedly by a group of persons under Part 2, Art. 206 of the Criminal Code; theft committed repeatedly by a group of persons under Part 2, Art. 205 of the Criminal Code; intentional unlawful deprivation of life (murder), which was committed with particular cruelty, provided by para. 6, Part 2, Art. 139 of the Criminal Code of the Republic of Belarus.

Taking into consideration the numerous charges, the court ruled to sentence the accused to an exceptional measure of punishment – the death penalty. The defendant was found innocent of deliberately committing other acts of sexual nature against the will of the victim of violence, resulting in serious bodily injury under Part 3, Art. 167 of the Criminal Code, and acquitted due to lack of evidence of his involvement in the commission of the crime. The trial was held behind closed doors.

The families of a number of persons who had been sentenced to death and executed continued campaigning for introducing changes in the procedure of execution of the death penalty. On March 12, the Lieninski District Court of Hrodna refused to institute civil proceedings against the Department of Corrections of the Ministry of Interior on claim of Tamara Sialiun, the mother of Pavel Sialiun, who had been executed on murder charges, after she received her son's prison uniform, and was not allowed to take the body after his execution. The death convict's mother also complained about lack of information regarding the date of execution and the exact place of her son's burial. The Court said that the provision of such information was regulated by the penal law, therefore, it could not be challenged in civil proceedings. Based on its findings, the Court stated that there were no reasons for the Supreme Court of the Republic of Belarus to question the constitutionality of criminal-executive legislation, namely Art. 175 of the Criminal Executive Code, which regulates the enforcement of death sentences. In its reply of March 25, the Constitutional Court rejected Ms. Sialiun's complaint, referring to the fact that such questions were considered by the Constitutional Court on the basis of proposals submitted by the authorized bodies. In addition, the response argued that the citizens of the Republic of Belarus could only enjoy indirect access to constitutional justice.

Siarhei Ivanou was sentenced to death in March. The defendant appealed against the sentence to the Supreme Court. The appeal was supplemented by evidence of violations of his rights under the International Covenant on Civil and Political Rights.

Human rights defenders helped relatives of executed prisoners to protest against a ban on handing over the bodies for burial and accessing information on the place of burial, which according to them, is an act of ill-treatment.

In particular, **Volha Hrunova**, the mother of **Aliaksandr Hrunou,** executed in late 2014, was not allowed to be notified of the place of burial of her executed son.

A similar complaint by **Tamara Sialiun**, the mother of another death convict **Pavel Sialiun**, was also left without consideration.

Tamara Sialiun appealed to the state authorities who have the right to appeal to the Constitutional Court with a proposal to amend the law regarding the ban.

Replies to her appeals to the Standing Commission for Legislation of the House of Representatives and the Standing Committee for Legislation and State Building of the National Assembly said that there were no grounds to change the provisions of the law and that they were consistent with the Constitution and international commitments of Belarus.

In May, it was announced that the United Nations Human Rights Committee found a violation of the right to life in relation of the Hrodna resident Aleh Hryshkautsou.

On 14 May 2010 Hrodna Regional Court sentenced Aleh Hryshkautsou and Andrei Burdyka to death. On 25 May 2011, it became known that the sentence against both convicts had been carried out despite the registration of Hryshkautsou's individual communication in the UN HRC in 2010 and the Committee's urgent measures of protection in accordance with procedure 92, of which the Belarusian MFA and other government agencies were notified.

This is the fourth observation taken by the UN HRC on individual communications of Belarusian citizens to find a violation of the right to life and the right to a fair trial, the right to defence and the use of torture against the claimant.

On July 14 the Supreme Court of Belarus considered the appeal of theRečyca resident Siarhei Ivanou. On March 18, 2015 Ivanou was sentenced to death for a murder, committed with especial cruelty.

The case was heard behind the closed doors due to the especial cruelty of the crime and some intimate details. The relatives of the victim didn't attend the trial, there were just the relatives of the murderer.

After studying the materials of the case, the panel of judges of the Supreme Court upheld the judgement of the court of the first instance, the death penalty. Thus, the verdict entered into legal force and, in case of failure to appeal the sentence under supervisory procedures and obtain pardon from the president, the death sentence will be executed.

On September 25, the OSCE Human Dimension Conference in Warsaw hosted an exchange of views on the abolition of the death penalty. At the hearing, Andrei Paluda, coordinator of the campaign "Human Rights Defenders Against the Death Penalty in Belarus", told in detail about the situation with sentencing and executing death convicts in Belarus.

In the framework of the Week Against the Death Penalty, a series of events were held in Belarus, as well as in Lithuania, Poland, Ukraine and Kazakhstan from 5 to 10 October.

On October 9, human rights activists held a press conference in Minsk, which was dedicated to the World Day Against the Death Penalty. The event was attended by the coordinator of the campaign "Human Rights Defenders Against the Death Penalty in Belarus" Andrei Paluda, representatives of the Human Rights Center "Viasna" Ales Bialiatski and Valiantsin Stefanovich, Liubou Kavaliova, the mother of Uladzislau Kavaliou who had been executed in 2012, and the lawyer of the Belarusian Helsinki Committee Hary Pahanyaila. Among the honoured guests were representatives of the embassies of Great Britain, the Czech Republic and Italy.

On October 15, the United Nations Human Rights Committee confirmed the registration of the communication submitted by Andrei Paluda, coordinator of the campaign "Human Rights Defenders Against the Death Penalty in Belarus", on behalf of Siarhei Ivanou, who had been sentenced to death earlier this year. The UN Committee said that the communication was registered under No. 2655/2015 and a copy was sent to the State party. The Committe also pointed that "under Rule 92 of the Committee's Rules of Procedure, the State party was requested not to carry out Mr. Sergey Ivanov's (Siarhei Ivanou's) death sentence while his case is under consideration by the Committee".

Part 5.
Signers of the Petition Against the Death Penalty in Belarus:

A Petition Against the Death Penalty in Belarus

Belarus is the last country in Europe and former Soviet Union that is still carrying out the death penalty. Amnesty International, Human Rights Center "Viasna", Belarusian Helsinki Committee and other human rights defenders in Belarus oppose the death penalty in all cases without exception. The death penalty is a violation of the right to life, guaranteed by the Constitution of Belarus and the Universal Declaration of Human Rights. Nothing can justify the purposeful and ruthless taking of a human life by the State.

The death penalty is a destructive and divisive public policy that has been shown to have no special deterrent effect on crime. It distracts from effective measures being taken against criminality through promoting simplistic responses to complex human problems. It denies the possibility of rehabilitation and reconciliation. It prolongs the suffering of the victim's family, and extends that suffering to the relatives of the condemned prisoner. Amnesty International, Human Rights Center "Viasna", Belarusian Helsinki Committee do not seek to belittle the suffering of the families of murder victims, and recognize and endorse the government's duty to protect the rights of all people under its jurisdiction. However, executions are a symptom of a culture of violence rather than a solution to it. By executing a person the state commits a premeditated killing and shows a readiness to use psychical violence, similar to that of the criminal.

In Belarus the use of the death penalty is compounded by a flawed criminal justice system that administers capital punishment in a manner that violates international laws and standards pertaining to the death penalty. There is credible evidence that torture and ill-treatment are used to extract "confessions"; condemned prisoners may not have access to effective appeal mechanisms; and the inherently cruel, inhuman and degrading nature of the death penalty is compounded for death row prisoners and their

relatives by the secrecy surrounding the death penalty. Neither prisoners nor their families are told the execution date in advance and prisoners must live with the fear that every time their cell door opens they may be taken for execution.

We call on the President and Parliament of Belarus to immediately declare a moratorium on death sentences and executions as a first step towards full abolition of the death penalty.

Kasia Kamotskaya: The Death Penalty is a sign of Great Backwardness in the Country

Kasia Kamotskaya, a singer says that,

– I join the campaign against the death penalty in Belarus as I think that, first of all, no one has the right to deprive a person of life. It can be done only by oneself, though it is still considered a sin in Christianity.

Secondly, there are great problems in the law-enforcement system in Belarus. The whole system needs to be changed. It seems to me that unfair verdicts and simple court mistakes are quite possible in a country where there are no real courts. It means that innocent people can be punished.

Thirdly, I believe that the death penalty is a trait of a great backwardness of a country, and its abolishment would be another step of Belarus towards the family of free democratic countries.

Zmitser Vaitsiushkevich: I Join the Campaign Against the Death Penalty!

Zmitser Vaitsiushkevich, a singer, states,

– I join the campaign against death penalty in this country due to a number of reasons. The main thing is to prevent the killing of the innocent. I would like to support the petition to the Belarusian authorities, because I think that it is high time to understand who we are, where evil comes from and who has the right to judge. These issues are extremely complicated and simple at the same time…

I don’t want the killing of innocent people to take place, because sometimes that’s what happens.

Uladzimir Puhach: There is Nothing more Foolish than Punishing Someone with Deprivation of Life for an Offence

Uladzimir Puhach, a singer, says,

– Mankind has passed through many stages of development. Many things have been invented and many things have been forgotten. This is how progress comes into being. People used to eat one another, then they gave it up. People used to kill one another and, unfortunately, continue to do so. But I believe that one day people will stop killing each other. And what could be my biggest dream is that one day people will stop killing each other by law.

To execute a human being for committing a crime is the silliest thing on Earth. Because a human being who ceases to exist cannot suffer any negative consequences of his or her deeds, as lawyers say. It is his or her family who are punished. And the main thing is that, as one famous lawyer would say, it is not the gravity of the punishment but its inevitability that keeps a person from committing a crime. In case a person is 100% sure that after committing a crime he or she will be punished, he will not do it. If, instead, the crime is punished with five or six death penalties but the criminal is sure he or she can escape punishment, the crime WILL be committed anyway. The gravity of the punishment is helpless.

Tamara Lisitskaya: People Mustn't Kill People. And that's that!

Tamara Lisitskaya, a journalist, writer and screenwriter says,

– When I was asked to speak against the death penalty, I took some time to think. It wasn't easy to make a decision, especially one of such difficult decisions that is not directly related to your family. No one knows how life will turn, though... But I want to believe that everything will be alright with everyone.

I read the answers of other signers of the petition and agreed with what they said. To my mind, the problem is reflected especially well by the following. It is impossible to bring back to life an innocent person after the execution. This is obvious and this is a terrible mistake that cannot be forgiven.

On the other hand, the offender is left without an opportunity to comprehend what he has done. He will just be afraid to die but won't be

able to understand what he has done. I understand that these words do not comfort the families who have directly faced with all this and suffered a loss. They may be foreign and unpleasant. These people can be possessed by the strongest emotion.

Yes, I wouldn't be able to convince and won't even try to convince such people. I will try to formulate the next thought. Please, imagine: first there comes a long hesitation and waging pros and cons, the facts and information on how much money is spent on the maintenance of those who are sentenced to life imprisonment... Then some information from various websites, talks with friends and – the end of reflections.

What I stand for is that people must not kill people, and that's that! I would like to have such law introduced everywhere, on Earth and in the skies. However, if this seems unconvincing, there is also another popular phrase: only God decides, only God judges. And everyone will bear the punishment he must bear. It is not for us to decide.

Zhana Litvina: A Civilized Society Should Eliminate the Death Penalty in order to avoid Punishment of the Innocent

Zana Litvina, a journalist, head of the public association "Belarusian Association of Journalists" in 1995-2015, winner of the award of Friedrich Ebert Foundation for Human Rights, says,

– If Belarus is really going to be among the rest of the civilized European countries, it should at least introduce a moratorium, if not completely abolishing the death penalty.

To date, the death penalty is either absent in the legislation or is not used in 146 countries of the world. What concerns the abolition of the death penalty, the statistics prove that the presence or absence of the death penalty in the legislation, its use or non-use has no effect on the number of the committed crimes. Secondly, there seems to be no guarantees against judicial errors.

I believe that a civilized society should eliminate the death penalty to avoid punishment of the innocent. In general, the death penalty can be regarded as a kind of sacrifice. I think that the life imprisonment for a criminal is an even harder punishment from God than execution.

These are the arguments that influenced my decision to join the campaign to abolish the death penalty.

Sviatlana Aleksiyevich: Killing Others is an old, Antediluvian Solution to Human Problems

Sviatlana Aleksiyevich, a writer, says,

– For over 30 years I have been writing my “red chronicle” – my series of books. I have written about war. I was in Afghanistan and saw people being killed…I have always thought about how people can live together knowing they can kill each other at any time, that is – do God’s work. Since no one has the right to do this.

This is a pre-historic way of problem-solving: kill your enemy because he is your opponent, because he is not like you, or has done something terrible. I think our world will always be a world of murderers.

I surely would like to join the efforts of those who want the mankind to abandon every thought of killing one another, just like we have abandoned every thought of eating one another. That is why I am putting my signature.

Adam Hlobus: Lest People Turn into Beasts and our State Turns into a Bestial Flock

Adam Hlobus, a writer, artist and publisher says,

– Firstly, when Socrates was asked why he didn’t bother and rejoiced before drinking poison, he answered, “They have condemned me to death, but nature has condemned them”. We could believe Socrates if we had a video recording of his speech. However, everything that was said by Socrates is known only from Plato’s writings. The great Plato taught that everyone had an immortal soul, and even Christ’s suffering on the cross looked quite decent as long as people believed in the immortality of the soul: a man sacrifices himself, is punished and then resurrects. We used to believe in it, I mean humankind. But now we don’t believe in it. We don’t believe Plato, don’t believe in Christianity. That’s why we should not assume the functions of nature. Only nature condemns us all to death, and we should not replace nature.

I am also against the death penalty because if any state punishes a man with death and annihilates him, several murderers remain in our society instead of one. The prosecutor who demanded the death penalty is a murderer. The judge who sentenced the person to death is also a murderer, as well as the executioner who performed the killing. Thus, by legally killing someone in

our society, in the State, we get three murderers instead of one. We breed murderers in the state, and this is unacceptable.

We also need to abolish the death penalty for another reason. A man who has killed or raped five hundred other people, must, no doubt, be tried and isolated from society. However, is he normal? I believe that the people who kill and rape others without any reasons are mentally ill. That's why when somebody says that Chykatsila and other maniacs were found to be sane, I have serious doubts. That's why these people need to be studied and examined, not just killed and forgotten. There arises the question why we don't examine the sanity of the people who sign the death verdicts. Are they sane? This is very questionable! I am against the death penalty and have always supported those who oppose it.

There is also a very strong argument that is usually used by supporters of the death penalty. They say, if your own daughter was raped or killed, how would you behave in such a state? I'd like to answer to such people that I would rip their tongues out for such words! First of all, it's illogical. Such people personally wake in me and in society the beast that begins to destroy other people once it has been awoken. What do we have the State for? For making us people, for controlling human behaviour, for forcing us to remain people even in the most dramatic situations? Of course, if something of the kind happens to my daughter, I will run and tear off the head of this man, because I will turn into a beast. And we need to struggle against the death penalty to remain humans, lest people turn into beasts and our state turns into a bestial flock.

Katsiaryna Pytleva: The Death Penalty Appeared when People Didn't Know and ee Any Other Way Out

Katsiaryna Pytleva, a vocalist with the band "Klondike", says,

– Actually, I didn't think about this issue for a long time, probably because I, like the majority of the people living on planet Earth, have never been faced with it. However, when the time came to think about it, I weighed the pros and cons and came to my own standpoint. I believe that there should be no death penalty. First of all, it violates human rights. Secondly, none of us have the right to take another person's life. Of course, many criminals do so, and people say that the death penalty is necessary to make them get what they deserve. Many people say so, but revenge has never

been something good and has never made anyone better. A man must be virtuous and never pare to revenge, as there is nothing attractive in it. The death penalty, in fact, is revenge, and not the best one for what it's worth.

I believe that a person who has committed a crime will have a better understanding of what he has done, if it is possible for him at all, if he never leaves prison and won't be able to do anything except for sitting there, thinking and recollecting what he has done.

The death penalty appeared when people didn't know and see any other way out. However, now we are living in a modern and civilized society and shouldn't return to the Middle Ages and take people's lives if they do something that is contrary to our laws.

Uladzimir Arlou: If a Man is Sentenced to Death, He Loses the Opportunity to Wait for Justice in case he is Innocent

Uladzimir Arlou, a writer, says,

– I'm definitely against the death penalty. Out of common humanistic considerations, as it can be said.

My position is influenced by the fact that I grew up in a lawyer's family. My father was a prosecutor in Polack and he often expressed his views on tough sentences at home.

If a man is sentenced to death, he loses the opportunity to wait for justice in case he is innocent.

Many Belarusians remember the Viciebsk case. Many innocent people were punished in it, one of them, with death. Many of the defendants in the case had spent much time in prison before the real perpetrator was found. Yes, the brother of our acquaintances returned from prison ill, morally and physically broken. He died one year after his release. The use of the death penalty leads to depriving innocent people of their lives. Fraudulent investigators can always sweep something under the rug. Counsels have the chances to lead the case until the end and prove that someone is innocent if the convicted person is still alive. By the way, recently I watched a TV program about the people who had been sentenced to life imprisonment and were justified only long afterwards. What would have happened if they had been sentenced to death?

I stand for the abolition of the death penalty, as it has been done in more civilized countries. I believe that Belarus will inevitably come to this, and come to abolish the death penalty.

Zinaida Bandarenka: A Civilized State Shouldn't have the Death Penalty

Zinaida Bandarenka, People's Artist of Belarus, Belarusian TV announcer:

– I believe that the Christian Belarus should not impose death verdicts. Lord willing, the man should live. And if he has committed a brutal crime, he will definitely be punished in the afterlife.

The court practice is full of judicial errors! How many people have been wrongly deprived of life? We still remember the notorious Viciebsk case with the feeling of horror.

Given that the Belarusian judicial laws aren't very thorough in the protection of human rights, and court cases are considered superficially, none of us are immune from imprisonment...

The Belarusian TV reminds us every day that we are a civilized State, but a civilized State shouldn't have the death penalty.

Mechyslau Hryb: The Death Penalty is Murder, Albeit Ruled by the Court

The former head of the Supreme Soviet of Belarus (1994-1996), and member of the oppositional Belarusian Social Democratic Party "Hramada" Mechyslau Hryb, was the first politician to join the public campaign aimed at the abolition of capital punishment in the country.

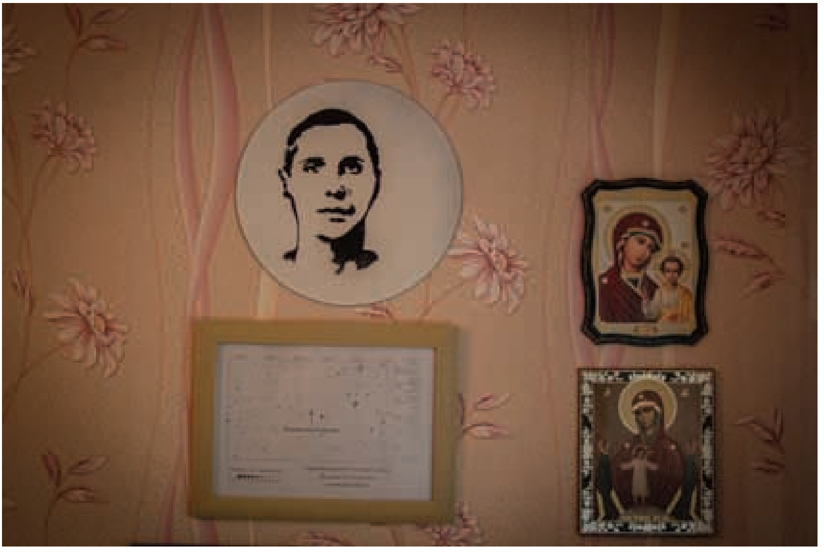
– The issue of the abolition of the death penalty is not a new one, it has been discussed in society for decades. On November 24, 1996 the death penalty was supported by the people of Belarus at a nation-wide referendum, condemned by numerous experts, both Belarusian and international. Still, many citizens of Belarus do believe that capital punishment can be used in case of most brutal crimes. This punishment is provided by a number of articles of the existing Criminal Code of Belarus.

However, we should not put up with the situation. International human rights organizations have repeatedly suggested abolishing death penalty

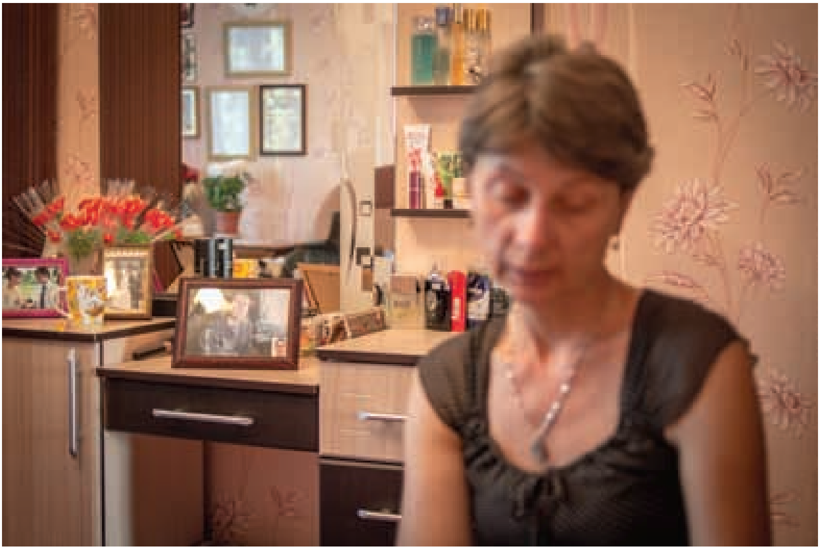
Capital Punishment, a joint project
by photographer Siarhei Balai
and the campaign
“Human Rights Defenders
against the Death Penalty in Belarus”,
depicting the mothers
of executed prisoners





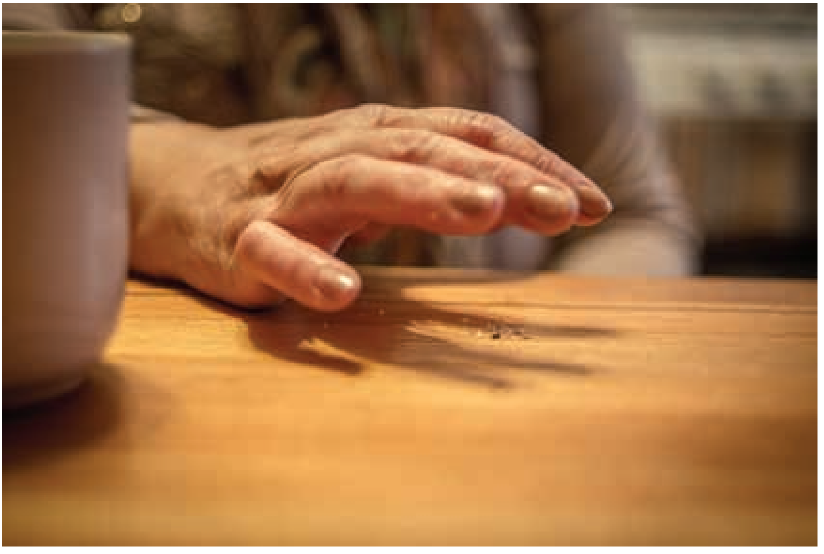




















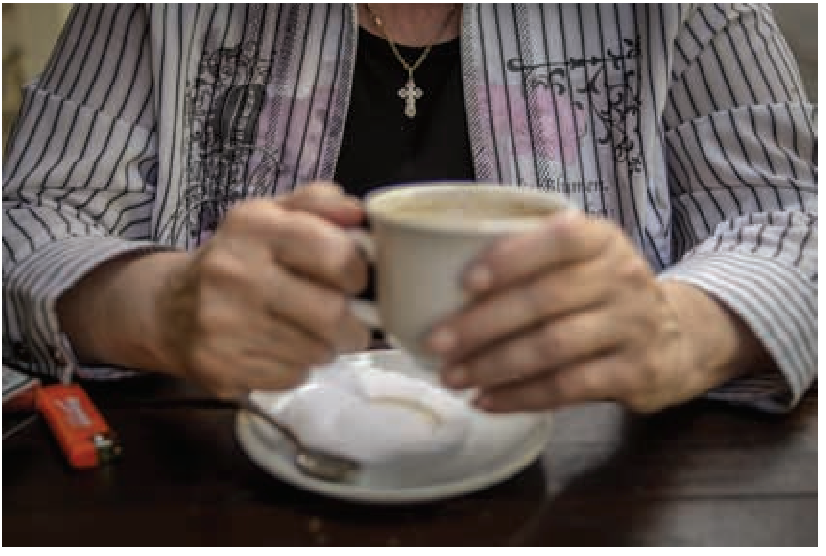






























in Belarus. The recommendation is supported by the key EU structures.

Now, there is a campaign against capital punishment in Belarus.

Having served over 36 years in law enforcement bodies of Belarus, I have arrived at the conclusion that death penalty MUST be abolished and the campaign is worth trying.

Any violent death, including the death penalty, is a murder, albeit ruled out by an authorized court of judges.

But judges are human beings, they can make mistakes and their decisions cannot be absolute. Mistakes can be corrected, but if the death penalty is used they become irreparable.

We, human beings, should remember it, for a human life is the most valuable thing on Earth.

Aleh Hulak: It is Savagery to Let the State Kill Humans in the 21st Century

Aleh Hulak, a human rights activist, and chairman of the Belarusian Helsinki Committee, says,

– I believe that Belarus must abolish the death penalty. It is savage to allow the state to murder a human being in the 21st century. The death penalty is a humiliation of people. It is a humiliation of the law. It is a humiliation of the present. I think that the State, and that State bodies should, first of all, declare a moratorium on the execution of the death sentences. Then they should abolish the death penalty, and eliminate this kind of punishment from the Criminal Code. This would be an essential step towards the humanization of Belarusian society.

Ales Marachkin: Not to Violate God's Commandment, "Thou shalt not kill!"

Ales Marachkin, an artist, says,

– Doubtlessly, it is a very interesting and complex topic, the topic of human life that is given by God. I have the painting "*Cain and Abel*", about the first assassination described in the Bible. I would say that it is an example of civil war, when a brother fights a brother. Everything was good in Abel's life, everything multiplied and lived in his household. Cain was being eaten

up with envy. So he took a stone and killed his brother, but was punished for it. Where life is, there is also death.

Death can be violent or natural. There are casualties. You should understand that such things happen not only in our country, but even in the civilized ones, in Germany and the USA. Why does a man suddenly take arms and shoot other people, or why does a son lift his hand against his father?

On one hand, such behaviour is provoked by the TV and cinema, where we usually see violence, shots and mutual annihilation. On the other hand, there is psychological stress when a person feels cornered. Drinking is an issue both in Russia and in our country. What is alcohol? As somebody once said, vodka is the realization of happiness for a moment. A man who is unhappy gets befuddled when drinking and cannot control his behaviour any more. Then an axe or a knife can become the last argument for him. Who brings the people to it? We see it today in our villages…

And yet, do we need capital punishment? I have come to the conclusion that it is necessary to abolish it completely, and will explain why. We have enough power structures, the prosecutor's office, Special Forces, police, etc. guarding these people. And the worst offenders can be given a life sentence, life imprisonment, not to violate God's commandment, "Thou shalt not kill!"

Andrei Khadanovich: The Death Penalty is a Possibility of an Error, Death is Something that Cannot be Corrected

Andrei Khadanovich, a poet, and chairman of the Belarusian PEN Centre, says,

– I feel happy and honoured to be able to join the campaign against the death penalty in Belarus, for I am definitely opposed to this brutal, barbaric, senseless, terrible (as it seems to me) and, at the same time, meaningless procedure. I don't believe that people can be improved through intimidation.

The death penalty has always been a means to ride the herd on, pumping the feeling of fear. People won't become better this way. We are striving for a society in which people will be governed not by fear that they can

be punished for any deed, whatever terrible it may be, but by the feeling of justice, the understanding what is good and what is bad. I believe that the death penalty won't stop a criminal – he will just make some furtive glances before the crime to see whether anyone sees him, whether there will be any witnesses, and so on. In such a way we just school themselves to carefulness, artifice, cowardice, not justice and mercy. On the other hand, another argument is mentioned, as the death penalty possesses the possibility of error, death is something that cannot be corrected. Unfair incarceration can be corrected, unlike the guillotine, electric chair and shooting. An episode from Bulgakov's, "The Master and Margarita" comes to my mind. Specifically, when Pontius Pilate is talking to Yeshua, saying he can cut the hair at which his life hangs. Wise, but seemingly defenceless Yeshua replies, "No, the hair can be cut only by the one who has suspended it". We haven't suspended other people's lives on that hair. None of us seem to be able to raise the dead so far. As long as we cannot raise the dead, we shouldn't take the life we haven't given.

We are not the ones who can decide whether a person has worth of his life or not.

Hanna Khitryk: If You are for the Death Penalty, Than you are for War

Hanna Khitryk, an actress and singer says,

– I don't know what can make me say that I am for making somebody who is living to cease to exist. And I don't understand people who say, "Yes, this man must be exterminated, or, roughly speaking, killed". It seems to me that if you are for the death penalty, you are also for war.

I understand that someone who is sentenced to death must have done much evil, but I don't think that one will only redeem these deeds while getting ready to die.

I will not say that we have been created by God and he is to decide what and how should be, as there are atheists, but somebody must have lead us where we are for some reason. We get very worried when somebody gets ill or there appears some terrible disease that can destroy the humankind. But here we take living people and say: "I believe that this one must not live, as I am the main judge, or whatever..."

I agree that my first reaction would be for liquidation of the person who does much evil. But it is only the first reaction! It is emotion! But if you think, you understand that it is not worth killing anyone! To wish someone death is to spoil oneself. You should not do it, as the person who has committed the crime has already spoilt everything.

The state must not kill people. The state is the people who we elected, who we rely on and who we trust. If the people who we trust will be assassins, what people are they and what people are we if we have elected them?

Hary Pahaniaila: The State Must not be put in Conditions Where it will have to Commit Murders Itself

Hary Pahaniaila, a human rights activist says,

– The right to life is natural and inalienable. Life is given by God and no one can take it from a human being. Therefore I strongly object to the death penalty as a criminal punishment within the Belarusian legislation. The state must not be put in conditions where it will have to commit murders itself. The state should guarantee human life. No doubt, while defining the boundaries of human behaviour, the state should have instruments of correcting those who commit offences, especially grave ones. A life sentence is absolutely adequate as the exceptional measure of punishment for grave crimes. Besides, it enables the person to realize and correct his or her fault, both in terms of human relationships and in respect to God.

Krzysztof Zanussi: There is no Justification for the Death Penalty in the Modern World

Krzysztof Zanussi, a film director, says,

– You know, in my country it was banned a long time ago. Pope John Paul II used to speak strongly, saying there was no justification for the death penalty in the modern world, though there perhaps used to be one before. Surely, from a human point of view, I am definitely opposed to it; it seems to me to be something absolutely unreal. Still, I understand that there is a strong desire of revenge to those who have done evil. The entire civilized world, except for America, lives without the death penalty, and in reality one can see that it does not increase the number of crimes.

Liavon Volski: We Won't Change Anything by Killing Someone

Liavon Volski, a singer, says,

– You know, I am utterly opposed to the death penalty in Belarus and in the whole world. We will not change anything by killing a man who has committed a crime, be it even a very terrible crime. Believe me, it won't change anything at all. Besides, it will cause more bloodthirstiness.

To my mind, those who are against the abolishment of the death penalty either pursue some political aims, or are very bloodthirsty and not very good by nature.

Mikhail Pastukhou: The Presence or the Absence of the Death Penalty is an Indicator of the State's Development, the Legal Culture of Society

Mikhail Pastukhou, an Honoured Lawyer of the Republic of Belarus, and Judge of the Constitutional Court (1994-1997), says,

The Republic of Belarus is the last European country to use the death penalty. The Constitution says that it is an exceptional measure of punishment. Still, there is no place for such punishment nowadays.

The point is not that we shall use the punishment rarely, and some 3-4 death verdicts are passed every year. The very presence or the absence of the death penalty is an indicator of the state's development, the legal culture of the society, even the mentality in general. The abolition of the death penalty is a sign of the state's and society's achievement of a certain level of development when human life is recognized as the supreme value not to be defied by anyone, including the state.

It will first of all be the recognition of the fact that the human being, his life, rights and freedoms are the supreme value not to be questioned by the state. The abolition of the death penalty is a sign of the maturity of society, the development of the State, and eventually is the implementation of one's commitments before the European community. The issue of the death penalty in the Republic of Belarus is ripe and certain measures should be taken. The easiest measure is the declaration of a moratorium on the death penalty. I think that we can abandon this "exceptional" measure of punishment and on

all terms join the European family of nations, not only on this condition, but on other terms as well, which is what the civilized world is expecting us to do. However, we are reluctant to implement our duties.

Pavel Sapelka: The Murder of a Man by Another Man Remains a Murder

Pavel Sapelka, a lawyer, says,

– The murder of a man by another man remains a murder irrespective of the way it is referred to by the State and society, be it the “death penalty”, “the highest measure of social justice” or “ten years without the right to correspondence”, a murder stays a murder. A civilized State must admit that the death penalty is a vestige of the past. I think that the State must take the responsibility for the results of breeding its own citizens. That’s why I join the campaign for the abolition of the death penalty in Belarus.

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The documentary book, "The Death Penalty in Belarus", was prepared in the framework of the campaign, "Human Rights Defenders against the Death Penalty in Belarus". The book contains information on the death penalty in Belarus from 1998 to 2016, as it was in 1998 when the mother of Ivan Famin, a man who was executed for someone else's crimes, appealed to the Human Rights Center "Viasna".

Among the exclusive materials presented in this publication there is the historical review, "A History of The Death Penalty in Belarus", prepared by Dzianis Martsinovich, and a large interview with a former head of remand prison No. 1 in Minsk, Aleh Alkayeu, under whose leadership about 150 executions were performed.

This book is designed not only for human rights activists, but also for students and teachers of jurisprudence, and wide public.

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